

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH.

Original Application No.29/2001.

Tuesday, this the 6th day of November, 2001.

Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,  
Hon'ble Shri M.P.Singh, Member (A).

1. Ramjanam S. Sharma,  
Working as Khalasi/Helper.
  2. Gyanendra Ram H.,  
Working as Junior Clerk.
  3. Ram Sajeevan Gupta,  
Working as Khalasi/Helper.
  4. Mansoor Ahmed,  
Working as Carpenter.
  5. Ravinder Pratap Singh,  
Working as Machinist.
  6. R.S.Patel,  
Working as Khalasi/Helper.
  7. Santosh Kumar Singh,  
Working as Sr. Khalasi.
  8. K.B.Yadav,  
Working as Sr. Khalasi.
  9. Raghunath Ganga,  
Working as Sr. Gangman.
  10. Riyaz Ahmed,  
Working as Khalasi.
- (All applicants are working  
under Divisional Railway  
Manager,  
Mumbai Division,  
Western Railway,  
Mumbai).  
(By Advocate Shri G.S.Walia)

...Applicants.

v.

1. Union of India, through  
the General Manager,  
Western Railway,  
Headquarters Office,  
Churchgate,  
Mumbai - 400 020.
2. Divisional Railway Manager,  
Mumbai Division,  
Western Railway,  
Mumbai Central,  
Mumbai - 400 008. ...Respondents.  
(By Advocate Shri V.D.Vadhavkar)

: O R D E R (ORAL) :

Shri M.P.Singh, Member (A).

The applicants 10 in number have filed this OA under  
section 19 of the Administrative Tribunals Act, 1985 seeking for



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a declaration that the applicants are entitled for absorption/appointment as Commercial Clerks with all consequential benefits.

2. The brief facts of the case as stated by the applicants are that they were appointed as Class IV employees either as Khalasi or Gangmen. All the applicants are working under the Divisional Railway Manager, Mumbai Division. According to the applicants, they are being utilised as Mobile Booking Clerks since the year 1992 and even at present they are being ~~as such~~ <sup>utilised</sup> for performing such duties. The Respondents are paying honorarium for performing the duties as Mobile Booking Clerk. The applicants have made representations to the Respondents requesting them to appoint the applicants as Mobile Booking Clerks where there are vacancies in the grade. They have also stated that as per the order of the Hon'ble Supreme Court the Mobile Booking Clerks who have put in 3 years service by 31st March, 1987 were regularised as Commercial Clerks. Since the applicants have already completed more than three years and are continuing to work as such, they are entitled to be absorbed/regularised as Commercial Clerks. Since the Respondents have not appointed/regularised the applicants, they have filed this CA seeking the aforesaid relief.

3. The Respondents in their reply have stated that as per the Ministry of Railways letter dt. 18.8.1988, the students who were working as Voluntary Mobile Clerks and completed three years service from 31.3.1987 were considered for appointment as Mobile Clerks. That scheme ~~has~~ <sup>has</sup> since been discontinued. Contrary to this, the applicants are regular Railway employees

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from various departments functioning as Mobile Booking Clerks on honorarium basis outside their duty hours and on Saturdays /Sundays. As per the Recruitment Rules, the 66 2/3 % posts of Mobile Booking Clerks are required to be filled up by direct recruitment through Railway Recruitment Board and 33 1/3% posts of Mobile Booking Clerks through promotion of Group 'D' staff of Commercial and operating department. The applicants have submitted representation on 25th September, 1998 and the same is replied on 7.1.1999. Since the applicants are regular Railway employees, they have their own channel of promotion. They have to seek their promotion in their own Department and while functioning as Mobile Booking Clerks in their spare time, payment of honorarium does not give them any right for appointment as Commercial Clerks which is required to be filled in as per the Recruitment Rules. In view of the aforesaid submissions of the applicants, this OA has no merit and deserves to be dismissed.

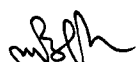
4. Heard both Learned Counsel for the rival contestand parties and perused the relevant record.

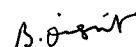
5. On a perusal of the record, we find that 66 2/3% posts of Commercial Clerks were required to be filled up by direct recruitment through Railway Recruitment Board and 31 1/3% through promotion of Group 'D' employees. There <sup>was an</sup> earlier scheme under which the persons working as Voluntary Mobile Booking Clerks were considered for absorption after they have put in three years service in that post. That scheme has since been discontinued. The applicants are regular Class - IV employees and are performing the duties of Mobile Booking Clerk in their

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spare time particularly on Saturdays/Sundays, for this they are being paid honorarium. They have their own channel of promotion in their Division. Merely performing additional duties of Mobile Clerk after and before their working hours does not entitle them absorption/appointment to the post of Mobile Booking Clerk. However, in the facts and circumstances of the case, we feel that the ends of justice will be served if we direct the Respondents to consider the applicants for the post of Commercial Clerks against 33 1/3% promotion quota if they fulfill all the conditions and are otherwise eligible for the post in accordance with law, rules and instructions. The above exercise be carried out within a period of six months from the date of receipt of copy of this order. No costs.

  
(M.P.SINGH)  
MEMBER(A)

  
(BIRENDRA DIKSHIT)  
VICE-CHAIRMAN

B.