

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH:
J A I P U R.

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O.A. NO. 668/1993

Date of order: 9.2.1998

Girdhari Singh S/o Shri Kan Singh, Driver, In the Office of Chief Engineer (C), Western Railway, Jaipur.

: Applicant

Versus

1. Union of India through the General Manager, Churchgate, Bombay.
2. C.A.O. (C), O.C.G., Western Railway, Churchgate, Bombay.
3. The Chief Engineer (C), Western Railway, Opposite Railway Hospital, Jaipur.

: Respondents

Mr. P.V. Calla, counsel for the applicant
Mr. Manish Bhandari, counsel for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAU PRAKASH, MEMBER (JUDICIAL)

O-R-DE-R

(PER-HON'BLE-SHRI-O.P.SHARMA,-MEMBER-(ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri Girdhari Singh and 22 others have prayed that directions may be issued to the respondents to regularise the applicants as Drivers/Skilled Artisans in Group 'C' post in which they have been working for the last 10-12 years with all consequential benefits. They have further prayed that directions be issued to the effect that they may not be subjected to the provisions Nos. 2001 and 2005 of I.R.E.M. and that on regularisation their complete service rendered as casual labour be counted and not merely 50% thereof.

2. While the application has been filed by 23 persons, no application for joining together and for permission to file

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a joint application was made. In these circumstances, by order dated 22.8.1995 it was held by the Tribunal that this application shall be considered as having been filed by only one applicant namely Shri Girdhari Singh. Accordingly, this application is being considered as having been filed by Shri Girdhari Singh only.

3. The case of the applicant is that he has been working as a casual labour for more than 10 years as a temporary status holder. No regularisation of the applicant has been effected so far in the Group 'C' post which he has been occupying though on a casual basis. The applicant in fact does not fall in the category of casual labour. A number of cases have been decided by the Tribunal wherein it has been held that persons working in Group 'C' posts though on a casual basis are required to be regularised in Group 'C' post. The applicant, therefore, prays that the respondents should be directed to regularise the applicant's services on the Group 'C' post which he has been holding now.

4. The respondents have filed their reply in which they have stated that in view of the directions of the Hon'ble Supreme Court, the respondents have framed a policy for regularisation of the casual employees and any regularisation can be done only in accordance with the said policy. They have also denied the claim of the applicant that applicability of certain provisions of the IREM can be dispensed with or that not 50% but the total service rendered by the applicant as casual labour has to be counted while regularising him.

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5. During the arguments the learned counsel for the applicant drew our attention to certain orders passed by the respondents which have not been brought on record. One is dated 30.6.1987 issued by the office of Dy.CE(CN), Bhuj (Kachchh) granting pay scale of Rs. 950-1500 to the applicant w.e.f. 1.1.1986 in the post of Truck Driver. Yet another order is dated 10.10.1996 issued by the office of the CPM, Jaipur promoting the applicant as TS Driver Gr.II, Scale Rs. 1200-1800 (RPS) on adhoc basis for local arrangement. Yet another order dated 17.10.1997 issued by the Office of the D.R.M. Ajmer by which the applicant amongst others has been regularised on a Group 'D' post. The learned counsel for the applicant has, however, drawn our attention to the Railway Board's instructions dated 9.4.1997 bearing No. E(NG) II/97/RC-3/4 which provides for regularisation under certain conditions and circumstances of casual labour directly in Group 'C' post. He has drawn attention to paragraph 3 of the aforesaid instructions dated 9.4.1997 which reads as under:-

"3. The question of regularisation of the casual labour working in Group-C scales has been under considerations of the Board. After careful consideration of the matter, Board have decided that the regularisation of casual labour working in Group-C scales may be done on the following lines:

- i) All casual labour/substitutes in Group-C scales whether they are Diploma Holders or have other qualifications, may be given a chance to appear in examinations conducted by RRB or the Railways for posts as per their suitability and qualification without any bar.
- ii) Notwithstanding (i) above, such of the casual

labour in Group-C scales as are presently entitled for absorption as skilled artisans against 25% of the promotion quota may continue to be considered for absorption as such.

iii) Notwithstanding (i) and (ii) above, all casual labour may continue to be considered for absorption in Group-D on the basis of the number of days put in as casual labour in respective units."

He, therefore, prays that in terms of Item (ii) of paragraph 3 of the aforesaid instructions, as reproduced above, the applicant is entitled for regularisation on Group -C post which he is holding at present.

6. We have heard the learned counsel for the parties and have perused the material on record including the documents which have been placed before us for our perusal now.

7. Item (ii) of para 3 of the instructions dated 9.4.1997 as aforesaid provides that casual labours working against Group-C post can be considered for absorption against Group C posts against 25% promotion quota. Of course this has to be done in accordance with the seniority position of the persons claiming absorption/regularisation and vacancies have also to be available in order that the applicant can be considered for absorption against Group-C post directly against the aforesaid promotion quota.

8. In the circumstances, we direct that the respondents shall consider the applicant's case for regularisation against a Group-C post against 25% promotion quota; if the applicant is found to be senior enough and he falls within the zone of consideration depending upon the availability

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of vacancy in the light of the provisions contained in Item (ii) of para 3 of the Railway Board's instructions dated 9.4.1997, referred to above.

9. The O.A. stands disposed of accordingly. No order as to costs.

10. Copies of the following documents shall be taken on record:-

- i) Order dated 30.6.1987 issued by the Office of Dy. CE(CN), Bhuj (Kachchh).
- ii) Order dated 10.10.1996 issued by the office of the CPM, Jaipur.
- iii) Order dated 17.10.1997 issued by the office of the D.R.M. Ajmer.
- iv) Railway Board's Instructions dated 9.4.1997 bearing No. E(NG) II/97/RC-3/4.


(RATNA PRAKASH)
JUDICIAL MEMBER


(O.P.SHARMA)
ADMINISTRATIVE MEMBER