

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH**

O.A.No.291/00155/2015

Orders pronounced on : 28.7.2016
(Orders reserved on: 25.07.2016)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. MEENAKSHI HOOJA, MEMBER (A)**

Ansar Khan

S/o Idiya, aged about 55 years,

working as Gangman under Dy. Chief Engineer (Construction),

N.W.R. Jaipur

R/o Village Palsawata,

Post Malarna-Doongar,

District Sawaimdhopur (Raj.).

Applicant

Versus

1. Union of India, through General Manager, West Central Railway, Jabalpur.
2. General manager, Northern Western Railway, Jawahar Circle, Jagatpura, Jaipur.
3. Chief Administrative Officer, Construction, G.M. Office, N.W Railway Jawahar Circle, Jagatpura, Jaipur.
4. Divisional Railway Manager, West Central Railway, Kota.
5. Divisional Railway Manager, Northern West Railway, Power House Road, Jaipur.

Respondents

Present: Mr. Nand Kishore, Advocate, for the applicant.
None for Respondents No.1 & 4.
Mr. R.G. Khinchi, counsel for Respondents No.2,3 &5.

ORDER
HON'BLE MR. SANJEEV KAUSHIK , MEMBER (J)

1. The applicant has filed this O.A., inter-alia, for issuance of a direction to the respondents to regularize his services as Group-D (Gangman) in the same manner as services of persons junior to him have been regularized.
2. The facts which lead to the filing of the present Original Application are that the applicant was initially appointed as Gangman on 8.7.1983. While working in Jaipur Division, the services of the applicant were terminated against which he filed OA.No. 1/96 which was decided on 27.3.2002 vide which the termination order was quashed and set aside. The respondents were directed to reinstate the applicant in service forthwith. It was held that the applicant would not be entitled to any back wages but the period after dismissal till joining duty, shall be treated as spent on duty for all purposes. The respondents challenged the order of this Tribunal by way of Judicial Review in CWP No. 7131/2002 which was ultimately dismissed on 10.5.2005. Meanwhile, the applicant was granted temporary status w.e.f. 2.7.1984 vide communication dated 15.1.2004 passed by the Deputy Chief Engineer © Kota.
3. The Railway Board issued instructions dated 26.4.2004 for absorption of staff working in construction units in new Zonal Railways. The applicant, who was working with the respondents since 1983 and was also granted temporary status, made a representation dated 23.5.2013 requesting

the respondents to regularize his services as services of persons junior to him had already been regularized. His representation was initially forwarded to the concerned quarters vide letter dated 2.1.2014 but till date the respondents have not taken any decision. Hence this Original Application.

4. Respondents No.1&4 and Respondents No.2,3&5 have filed two separate replies. They admit the fact that the applicant continues to work with them since 1983 and was granted temporary status w.e.f. 2.7.1984 vide letter dated 15.1.2004. The only objection raised by them to resist the claim of the applicant is that he was not appointed with the prior sanction of the General Manager, therefore, his initial appointment is bad in law. No other reason has been spelt out in the written statement as to why his case was not considered for regularization when he was granted temporary status and when persons junior to him and whose names are given in para 6 of the rejoinder have been regularized.
5. We have heard learned counsel for the parties present at length and examined the pleadings on file.
6. The only aspect that arises for our considerations whether the applicant is entitled for regularization when he was conferred with temporary status and working with the respondent department since 1983. It is not disputed by the learned counsel for the respondents at bar or by way of filing a counter to specific plea made in the rejoinder (in para 6 thereof) that the persons junior to the applicant

have already been regularized whereas the case of the applicant has not been considered despite favourable recommendation made by the lower authority.

7. It is settled principle of law by the apex dispensation in the case of **Secretary State of Karntaka and Others Vs. Uma Devi & Others**, (2006) 4 SCC 1, that individuals who are working for more than 10 years are to be regularized. On the basis of such decision the respondents have already issued instructions for regularization of services of persons like the applicants who are continuing with them for more than 10 years or so. Thus, the benefit of regularization cannot be denied to the applicant as non-approval of General Manager, upon which his case is sought to be rejected, is at the most a procedural lapse and not an illegality which cannot be cured by the respondents.
8. In view of the above discussion this Original Application is allowed. The respondents are directed to consider the case of the applicant for regularization from the date when services of persons junior to the applicant have been regularized and pass necessary orders within a period of 3 months from the date of receipt of a certified copy of this order. No costs



(SANJEEV KAUSHIK)
MEMBER (J)



(MRS. MEENAKSHI HOOJA)
MEMBER (A)

Place: Jaipur
Dated: 29.7.2016

HC*