

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

Date of order: 11-12-1996

CA No.528/1996

Ayyadurai S/o Shri Arumugam C/o Assistant Engineer (North)
Western Railway, Jaipur Division, Jaipur.

.. Applicant

Versus

1. Union of India through General Manager,
Western Railway, Charchgate, Bombay.
2. Deputy Chief Engineer (Construction),
Western Railway, Abu Road.
3. Divisional Railway Manager,
Western Railway, Jaipur Division,
Jaipur.
4. Assistant Engineer (North),
Western Railway, Jaipur Division,
Jaipur.

.. Respondents

Mr. R.C.Gaur, counsel for the applicant

CORAM:

Hon'ble Mr. O.P.Sharma, Administrative Member

Hon'ble Mr. Ratan Prakash, Judicial Member

O R D E R

Per Hon'ble Mr. O.P.Sharma, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri Ayyadurai has prayed that the respondents may be directed to effect the absorption of the applicant in open line on the post of Mate without lowering him in the pay scale and the grade with all consequential benefits.

2. The facts of the case as stated by the applicant are that he joined Railways as Mate on 28-7-1978 in Rajkot Division and was granted temporary status on 1-1-1983. He was transferred to Jaipur Division in open line sometime in 1985 for permanent absorption.

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Vide Ann.A1 dated 31-8-95 he is being relieved from his present place of posting/post for permanent absorption in open line. The applicant was screened for permanent absorption and his name figures at Sl.No. 59 (Ann.A3). In the seniority list Ann.A4 the applicant's name is at Sl.No.31. Earlier after the screening the applicant was sought to be reverted from the post of Mate. He filed an OA No. 354/94. In the order dated 30-11-94^(Ann.A5) passed in the said OA, the Tribunal directed that since the applicant has continuously been working in a Group-C post for a considerably long time and has acquired temporary status in that post, he should not be reverted just because his name has been included in the panel for regularisation in a Group-D post. The Tribunal further directed that the respondents should not revert the applicant from the Group-C post to any Group-D post till he is replaced by a candidate selected in accordance with the rules. There are judgments of the Tribunal that a person working on a Group-C post can be regularised against a Group-C post. No formal selection for appointments on the post of Mate has been made but there is no difference between the screening test for Gangman and for a Mate. When a person is qualified in the screening test as Group-D employee and has been working on the post of Mate for about 18 years, it cannot be said that he is not qualified for the screening test as Mate. He has already been given temporary status as a Mate. When the applicant joined as Mate and has worked for about 18 years on the said post, he cannot be reduced to the lower post/scale on absorption. If the Railways wanted to

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conduct any test of the applicant as a Mate, it should have been conducted or an opportunity in this behalf can be given to him now. His plea is that since he has worked for such a long time on the post of Mate for which he has also been granted a temporary status, he should be absorbed on the post of Mate only. He has also submitted a representation Ann.A6 dated 31-8-1996 in this behalf.

3. During the arguments, the learned counsel for the applicant stated that in the transfer order Ann.A1 there is no indication that he is being transferred on a post other than that of Mate but he apprehends that the applicant may be after his transfer absorbed in Group-D post and may be given the lower pay scale of Group-D employee. The earlier order passed by the Tribunal (Ann.A5) protects the applicant from reversion to the lower post of Mate till such time he is replaced by a duly selected candidate. Therefore, the respondents would not be justified in absorbing the applicant against a lower post of Group-D employee or in granting a lower pay scale to him.

4. We have heard the learned counsel for the applicant and have gone through the material on record.

5. The applicant has not specifically sought any relief against order Ann.A1 by which he has been ordered to be transferred. This order is dated 31-8-1996 and as stated by the learned counsel for the applicant, the applicant has already joined duty at the new place of posting. In so far as the present case is concerned, it is with the prayer regarding absorption on the post of Mate with all consequential benefits. The applicant was working on the post of Mate on a casual basis and as stated by the applicant temporary status has been granted to him on the said post. Presumably now the

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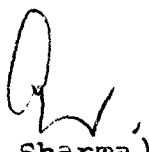
respondents wants to absorb him on a regular basis against a Group-D post. Question now is whether a persons which has been working against a post of Mate on a casual basis can be regularised and absorbed against such post. In this connection we may refer to the judgment of the Hon'ble Supreme Court in Union of India and Another Vs. Motilal and Others, (1996) 33 ATC 304, which has a direct bearing on the present case. In that case the respondents claimed to have been directly appointed as casual Mate in Group-C in Northern Railway and after continuously working for more than 120 days they acquired temporary status as Mates. Before temporary status was conferred on them they were required to pass the trade test. While they were continuing as Mates, orders were passed regularising them against the post of Gangman in Group-D. It was the case of the ~~applicants~~ that since Gangman can only be promoted on regular basis to the post of Mate, the respondents had regularised them in the lower post of Mate. On the question whether it was permissible under the rules to appoint a person directly as a Mate in Group-C and if not whether the factual continuance of a person as a Mate for a considerable period entitled him to regularise as a Mate, the Hon'ble Supreme Court held after examining the relevant rules etc. that it is not permissible to appoint a person directly as a Mate and it is only a promotional post from a Group-D post. The mere fact of their being appointed directly as casual Mates, their continuance on the post for a considerable period, grant of temporary status etc. on the said post does not entitle them to ^{be} regularised as Mates. On the question whether conferment of the temporary status as Mates ipso facto ~~does not~~ entitles a person to regular absorption as Mate, the Hon'ble Supreme



held that conferment of temporary status as Mate ipso facto does not entitle a person to regular absorption as a Mate.

6. The facts and circumstances of the present case show that it covered by the judgment of the Hon'ble Supreme Court referred to above. The applicant is, therefore, not entitled to absorption on the post of Mate for the mere fact that he had earlier worked on the post of Mate on a casual basis. We see no merit in this application and it is, therefore, dismissed at the stage of admission.


(Ratan Prakash)
Judicial Member


(O.P. Sharma)
Administrative Member