

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Order: 18.12.2000

OA 501/97

Pati Ram son of Shri Narottam Singh aged about 40 years resident of village Ardiya Post Achnera Tehsil Kirawali, District Agra at present employed on the post of Driver cum-Mechanic (TS) under TOW(C) Kota, Kota Division.

..... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Deputy Chief Engineer(C), Western Railway, Kota Division, Kota.

..... Respondents

None present for the applicant.
Mr. Manish Bhandari, Counsel for the respondents.

CO RAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)
Hon'ble Mr. A.P. Nagrath, Member (Administrative)

ORDER

(PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL))

In this OA filed u/s 19 of the Administrative Tribunal's Act, applicant makes a prayer to quash the impugned orders dated 1.10.97 and 4.9.97 at Annexures A-1 and A-2 respectively by which services of the applicant were regularised on the post of Gangman Group 'D'. Further direction are also sought to regularise the services of the applicant on the post of Driver-cum-Mechanic in the pay scale of Rs. 950-1500 (Group 'C') with all consequential benefits.

Subj

2. In brief, the facts of the case are that the applicant was initially appointed as Driver-cum-Mechanic in the pay scale of Rs. 260-400 in Kota Division on 30.11.74. The applicant was granted temporary status on 1.1.81. The applicant passed trade-test on 10.10.86. It is stated that applicant filed OA 192/94 for regularisation which was decided by this Tribunal on 30.6.94. Again a CP was also filed by the applicant. Thereafter again an OA 231/97, Pati Ram versus Union of India & Others was filed which was decided by order dated 31.7.97. It is stated that applicant is Group 'C' Class III category artisan staff. Applicant submitted a representation in view of the order dated 31.7.97 but respondent have not regularised the services of the applicant against Group 'C' but regularised the applicant against Group 'D' post. Therefore, this OA is filed for the relief, as above.

3. No reply was filed in this OA.

4. Heard the learned counsel for the respondents, Shri Manish Bhandari. Shri Manish Bhandari has argued that applicant has already agitated the facts and issue in his earlier OA 231/97. It was decided on 31.7.97 but again he has filed this OA, agitating the same facts which he has already agitated in earlier OA. Therefore, this OA is not maintainable on the ground of res judicata.

Subh
5. Shri Manish Bhandari further argued that applicant has already been regularised against Group 'D' post being a casual labour and he cannot be regularised against Group 'C' post. Therefore, regularisation of the applicant against

Group 'D' post on the post of Gangman is no way arbitrary, illegal and against the principles of natural justice.

6. We have given anxious consideration to the contentions of the learned counsel for the respondents and also perused the averments made in the OA.

7. It is not disputed that applicant has filed OA 231/97 with a prayer to regularise the services of the applicant on Group 'C' post and to quash order dated 29.5.97 and order at Annexure A-1 by which services of the applicant on the post of Gangman, Group 'D' were regularised and further directions ~~were~~ sought to regularise the services of the applicant on the post of Driver scale Rs. 900-1500 Group 'C' with all consequential benefits. This Tribunal after hearing both sides dispose of this OA by order dated 31.7.97. Therefore, we are of the considered opinion that applicant is not permitted to re-agitate the same issue again by filing the fresh OA which he has already agitated in earlier OA and this ^{view} has been affirmed in a leading case Cap. S.C. Gulati Vs. Union of India, 1998(1) ATJ Allahabad Page 242 and it was held that if the applicant has repeated the same plea which he has raised in earlier OA, the plea has been adjudicated in the earlier OA cannot be permitted to be raised on the basis of res judicata.

8. Not only but undisputedly applicant was initially engaged on casual basis and thereafter he has been regularised on Group 'D' post of Gangman in Railways. A Casual

Labourer cannot be regularised on Group 'C' post as it has been held in Jammuna Prasad & Others vs. Union of India & Others in OA 18/92 and 3217/92 decided by the Principal Bench, CAT, New Delhi on 8.3.99 and held that casual labourer in Railways can ~~not~~ be regularised in Group 'D' only. Full Bench of this Tribunal has recently decided that there can be no direct regularisation against Group 'C' posts. A person will be regularised firstly in Group 'D' post and thereafter he can be promoted in Group 'C' posts as per rules.

9. In view of the settled legal position and facts and circumstances of this case, we are of the considered opinion that applicant has no case for interference by this Tribunal and this OA is ~~more~~ devoid of any merit and is liable to be dismissed.

10. We, therefore, dismiss this OA with no order as to costs.

ChpD
(A.P. NAGRATH)
MEMBER (A)

Sukh
(S.K. AGARWAL)
MEMBER (J)