

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.521/97

Date of order: 7/12/2001

Sh.A.Mahadev, at present employed on the post of
Driver in Kota Division under DEE(C) Kota.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly,
Churchgate, Mumbai.
2. The Divisional Sr. Electrical Engineer (Power)
W.Rly, Kota Division, Kota

...Respondents.

Mr.Shiv Kumar : Counsel for applicant

Mr.T.P. Sharma : for respondents.

CORAM:

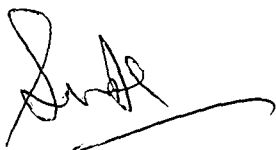
Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

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

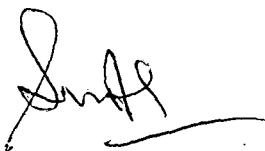
In this O.A filed under Sec.19 of the ATs Act, 1985,
the applicant makes a prayer to direct the respondents to
regularise the services of the applicant on the post of
Driver scale Rs.950-1500 in pursuance of Railway Board's
circular dated 9.4.97 with all consequential benefits. In
the alternative it is prayed that the respondents may be
directed to conduct trade test in respect of the applicant
for the purpose of regularisation on the post of Driver
Rs.950-1500 and may be allowed all consequential benefits
after passing the trade test.

2. Facts of the case as stated by the applicant are
that he was initially appointed as Khallasi on 17.8.83 and
the applicant was promoted on the post of Driver vide order
dated 24.2.89 and the applicant passed the trade test. It is



stated that the applicant was discharging his duties efficiently and effectively and all of a sudden in the year 1993, on papers, the applicant was reverted vide order dated 19.4.93 even though the applicant is discharging his duties on the post of Driver. It is stated that juniors to the applicant were promoted but the applicant was denied such promotion. Therefore, the applicant made representation but no action was taken. Hence, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that the applicant was engaged as casual labourer in the Project of Railway Electrification w.e.f.17.8.83 by CPM/RE Kota and thereafter he was granted temporary status w.e.f. 1.9.84. It is stated that the Railway Electrification Project was closed at Kota and the applicant was allowed to work as Khallasi under the DEE(C) Kota, which is a construction unit like Railway Electrification Project. It is stated that trade test was conducted to fill-up Group-D post in open line of Kota Division (Electrical Deptt) and the applicant was screened and placed on the panel for the post of Khallasi scale Rs.750-940(RP) vide letter dated 26.3.91 and the services of the applicant were made regular w.e.f. 19.9.90 alongwith other casual labourers. It is stated that in open line unit the substantive position of the applicant is as Khallasi, Group-D post, therefore, he is entitled to promotion according to his seniority when his turn comes. It is stated that Shi Peter who qualified the trade test of vehicle driver was placed on the panel and promoted as vehicle driver thus the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.



4. Heard the learned counsel for the parties and also perused the whole record.

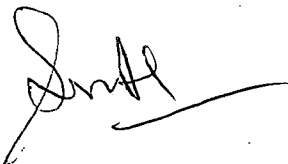
5. The learned counsel for the applicant placed fore emphasis on Railway Board's circular dated 9.4.97 and argued that in pursuance of this circular, the applicant is entitled to regularisation.

6. The Railway Board's circular dated 9.4.97 provides as under:

- 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 age 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) & (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.

7. This circular has also been referred earlier before different Courts of the country while dealing with such matters.

8. In Union of India & Anr. Vs. Moti Lal & Ors, (1996) 33 ATC 304, it was held by Hon'ble Supreme Court that persons appointed directly on casual mates although continued as such for considerable period and thereby acquiring temporary status are not ipso facto entitled to

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regularisation.

8. In Jamna Prasad & Ors Vs. UOI & Ors, OA No.1892 and 3217 of 92, the Principal Bench had held that casual mates cannot be regularised in Group-C posts as the rule provides to fill up Group-C post by proper recruitment or promotion.

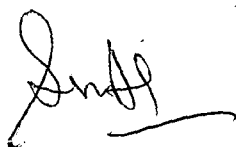
9. Full Bench of this Tribunal in Aslam Khan Vs. UOI & Ors, 2001(2) ATJ 1, answered the reference as under:

A person directly engaged on Group-C post (Promotional) on casual basis and has been subsequently granted temporary status would not be entitled to be regularised on Group-C post directly but would be liable to be regularised in the feeder cadre in Group-D post only. His pay which he drew in the Group-C post, will however be liable to be protected.

10. Similar controversy has come up before this Tribunal in O.A No.377/2000 Raj Kumar Sharma Vs. UOI & Ors, O.A No.378/2000, P.K.Gupta Vs. UOI & Ors, O.A No.379/2000, Rattan Lal Vs. UOI & Ors and in O.A No.380/2000, Ram Babu Chaurasiya Vs. UOI & Ors, decided on 11.7.2000, wherein it was held that no direction can be given to the respondents for regularisation of the applicant against Group-C post.

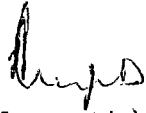
11. In view of the settled legal position and facts and circumstances of this case, we do not find any ground to direct the respondents for regularisation of the applicant against Group-C post, Driver and the applicant is not entitled to any benefit in response to circular dated 9.4.97 issued by the Railway Board as referred by the applicant in this O.A.

12. In view of above all, we are of the considered opinion that the applicant is not entitled to any relief



sought for.

13. We, therefore, dismiss this O.A having no merits with no order as to costs.



(A.P.Nagrath)

Member (A).



(S.K.Agarwal)

Member (J).