

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(10)

O.A. No. 525/97 & MA No. 94/99
T.A. No.

DATE OF DECISION 06-01-1999

Bashir Mohd. Petitioner

Mr. Shiv Kumar Advocate for the Petitioner (s)

Versus

Union of India and Anr. Respondent

Mr. Manish Bhandari Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. RATAN PRAKASH, JUDICIAL MEMBER

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Ratan Prakash
(RATAN PRAKASH)
JUDICIAL MEMBER

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No.525/97 & MA No.94/98

Date of order: 6.1.99

Bashir Mohd. S/o Shri Navi Noor, aged about 43 years, resident of village and post Meheid Pura, Distt. Ujjain, at present employed on the post of Mason, Deputy Chief Engineer (Construction Department) in Western Railway, Kota Division.

.. Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (Estab.), Western Railway, Kota Division, Kota.

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. Manish Bhandari, counsel for the respondents

CORAM:

Hon'ble Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant herein Shri Bashir Mohd. has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to quash and declare the impugned order dated 6.10.97 (Ann.A1) as illegal and arbitrary so far as it relates to the applicant. He also seeks a direction against the respondents to regularise his services to the post of Mason (Group-C) pay scale Rs. 950-1500 (RP) with all consequential benefits in the light of the Railway Board's policy dated 9.4.97 (Ann.A4).

2. Facts relevant for disposal of this application and as stated by the applicant are that the applicant was initially appointed on the post of Mason on 5.7.78 in Western Railway, Kota Division, Kota and was conferred temporary status on 1.1.83.
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3. It is the grievance of the applicant that though he was directly appointed in Group-C service on the post of Mason and has been getting all the benefits which are admissible to Group-C employees; yet by the impugned order dated 6.10.97 (Ann.A1) the applicant is directed to be regularised in the pay scale of Rs. 775-1025 on the post of Gangman which is a Group-D post. He has, therefore, sought a direction to the above effect.

4. The application has been opposed by the respondents by filing a written reply to which no rejoinder has been filed. It is the stand of the respondents that the applicant was initially appointed only as a Casual Labour and on completion of the requisite period of service, temporary status was conferred upon him but that does not mean that his services have been regularised. It has further been asserted by the respondents that the applicant cannot be regularised in Group-C post directly because such a post can either be filled by promotion or direct recruitment, that too amongst the candidates which are possessing the requisite qualification of I.T.I. or course completed as Apprentice. However, the respondents have also stated that the employees of the category of the applicant can only have a right of consideration as per the circular of the Railway Board dated 9.4.97 (Ann.A4). The respondents have, therefore, urged that the application deserves rejection.

5. I heard the learned counsel for the parties and have examined the record in great detail.

6. It has been argued by the learned counsel for the applicant that the case of the applicant falls for consideration under Para 3 Sub Clause ii) of the Railway Board's circular dated 9.4.97 (Ann.A4) and not under any of the other two clauses. The argument of the learned counsel for the applicant is also to the effect that the applicant's

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appointment has been in pursuance of the provisions of Para 2007 of the IREM Vol.II and as such he is entitled to get all the benefits flowing therefrom.

7. On the other hand, the argument of the learned counsel for the respondents has been that at the most the applicant could be considered for regularisation as per the Railway Board's circular dated 9.4.97 in Group-C scale.

8. It is settled position of law that this Tribunal can never go into the merits and demerits of the eligibility criteria of a candidate to be recruited on a specified post. Though, it is true as is evident from the pleadings of the parties that the applicant has been working continuously with the respondent Department since the year 1978; yet the applicant has failed to show that he was ever appointed on a regular basis on the post carrying Group-C scales. Besides, Para 3 of the Railway Board letter dated 9.4.97 (Ann.A4) reads as under:-

"3. The question of regularisation of the casual labour working in Group 'C' scales has been under consideration 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 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) 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."

9. Accordingly, in view of the facts as have emerged so far, it would be in the fitness of things that a suitable direction is given to the respondents in the matter. Consequently, the respondents are

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directed to consider the case of the applicant in accordance with para 3 (reproduced above) of the Railway Board's Circular dated 9.4.97 and issue necessary orders as expeditiously as possible.

10. The OA stands disposed of accordingly at the stage of admission with the consent of the parties. Since the OA has been disposed of on merits, MA No. 94/98 is not pressed by the learned counsel for the respondents which stands disposed of accordingly.



(RATAN PRAKASH)

JUDICIAL MEMBER