

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.377/2000

Date of order: 11.7.2000

Raj Kumar Sharma S/o M.L.Sharma working as Elec.
Fitter cum Wireman, O/o Sr.Section Engineer (Signal)
Construction, W.Rly, Kota.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly, Churchgate, Mumbai.
2. The Divisional Rly. Manager, W.Rly, Kota Divn, Kota.
3. Divisional Signal & Telecom Engineer(E), Kota Division, W.Rly, Kota.
4. Dy.Chief Signal & Telecom Engineer (Const), W.Rly, Kota.

...Respondents.

Mr.C.B.Sharma : Counsel for applicant

Mr.T.P. Sharma : for respondents.

CORAM:

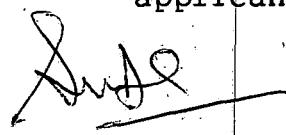
Hon'ble Mr.S.K.Agarwal, Judicial Member.

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 consider absorption/regularisation of the applicant on the post of Electric Fitter in artisan category (Group-C) in the scale Rs.950-1500/3050-4590 from the date of his working on the post as per policy laid down by Railway Board circulars dated 9.4.97 and 2.2.98 (Annex.A6 & A7) with pay protection and all consequential benefits.

2. The case of the applicant in nutshell is that the applicant was initially engaged as Group-D employee on



21.2.86 and he was subjected to screening test thereafter absorbed as Khallasi on 29.12.87. It is stated that respondent No.3 invited applications for promotion to the post of Electric Fitter cum Wireman from amongst Group-D category and applicant applied for the same and he was subjected to trade test. It is stated that the applicant promoted to the post of Electric Fitter cum Wireman in artisan category but still he is being treated as ad hoc with no future prospects. The Railway Board have issued circulars dated 9.4.97 and 2.2.98 but the case of the applicant has not been considered. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed which is on record.

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

5. Reliance was also placed by the applicant on Railway Board's circulars dated 9.4.97 and 2.2.98. 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

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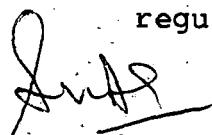
Group-D on the basis of the number of days put in as casual labour in respective units.

6. Reliance has also been placed on Railway Board's circular dated 2.2.98, which provides as under:

- i) 25% by selection from course completed Act Apprentices III passed candidates and Matriculates from the open market; serving employees who are course completed Act Apprentices or III qualified could be considered against this quota allowing age relaxation as applicable to serving employees.
- ii) 25% from serving Khalasis and Khalasi Helpers (formerly known as unskilled and semi-skilled respectively) with educational qualification as laid down in Apprentices Act.
- iii) 50% by promotion of staff in the lower grade as per the prescribed procedure.

7. On a consideration of the rules as also the administrative instructions, the Supreme Court has found that a daily wager or a casual worker against a particular post, who acquires a temporary status having worked against the said post for a specified number of days does not acquire a right to be regularised against the said post he can only be considered for regularisation in accordance with rules i.e. he can be considered for regularisation only to Group-D post.

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 regularisation.



9. 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 provide to fill up Group-C post by proper recruitment or promotion.

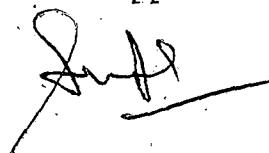
10. Full Bench of this Tribunal in Aslam Khan Vs. UOI & Ors, 2001(2) ATJ 1, answered the reference as under:

"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 protected."

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, Electric Fitter.

12. Applicant, as per records and his own averments, was already a regular group-D employee, when he was trade tested to hold the post in skilled grade only for requirement of the Constructions Department. This cannot entitle him to be placed above those, who are his seniors in the cadre in the pavement division. After his return to the ^{parent} pavement cadre, he has been assigned his parent cadre, he has been assigned his position as per the cadre correctly. Reliance placed by him on the rules, as stated supra, have no application in his case. It is a case of reverting to his cadre from an ex-cadre post.

13. The counsel for the applicant also argued that the applicant is entitled to pay protection. In view of the



facts narrated as above, we are of the considered opinion that the applicant is not entitled to pay protection in this case.

15. We, therefore, dismiss this O.A having no merit with no order as to costs.

Choudhury
(A.P.Nagrath)

Member (A).

Singh
(S.K.Agarwal)

Member (J).