

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 234/2002

DATE OF ORDER: 06.01.2004

Ramesh Chand son of Shri Ram Gopal aged about 41 years, resident of 61-B, Railway Colony, Bundi at present working as Senior Khallasi under I.O.W. Bundi.

.... Applicant

VERSUS

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

.... Respondents

Mr. C.B. Sharma, Counsel for the applicant.

Mr. Tej Prakash Sharma, Counsel for the respondents.

CORAM:

Hon'ble Mr. R.K. Upadhyay, Member (Administrative)

Hon'ble Mr. Bharat Bhushan, Member (Judicial)

ORDER (ORAL)

This application u/s 19 of the Central Administrative Tribunal's Act 1985, has been filed for seeking a direction to regularise the <sup>services of the</sup> applicant on the post of Mason (Group-C) from the date juniors <sup>were</sup> so regularised with consequential benefits. It is stated by the learned counsel for the applicant that the applicant was appointed as Casual Mason in the year 1979 and he was given temporary status w.e.f. 1.1.1984. It is further stated that the applicant has been regularised in Group 'D' post in the year 1991 and further promoted as Senior Khallasi in the year 1993. The applicant claims that persons junior to him have been regularised in Group 'C' post. In this connection, he referred <sup>to</sup> averments in Para 4.5 of the application wherein he has ~~cited examples~~ of S/Shri Radhey Shyam and Bajrang Lal. The learned counsel for the applicant further invited ~~our~~ our attention to the representation dated 21.3.2001 (Annexure A/4) filed by the applicant, which is still pending for disposal. He

says that the respondents should have considered the claim of the applicant for Group 'C' post for Mason from the date the juniors were so regularised.

2. The respondents have opposed the prayer of the applicant and they have filed reply. The learned counsel for the respondents raised several preliminary objections during the course of hearing. According to him, if the applicant was aggrieved <sup>by</sup> ~~for~~ <sup>non-</sup>regularisation ~~for~~ <sup>in</sup> Group 'C' post in the year 1991 and for promotion in the year 1993, he should have raised the grievance within the time limit prescribed u/s 21 of the Administrative Tribunal's Act, 1935. The present application filed on 15.5.2002 is highly belated and deserves to be rejected. It is further stated that application also deserves to be rejected on the ground of non-joinder of necessary party in as much as the applicant has not named any juniors as respondents.

3. The learned counsel for the <sup>respondents</sup> ~~applicant~~ has invited our attention to the reply wherein it is stated that "as & when vacancy arise for Group 'C' under 25% quota, the applicant may apply and his case will be considered as per provisions of Railway Board Circular." The respondents in their ~~reply~~ have stated the benefit have been given to the so called juniors "as per the direction of the Hon'ble Tribunal."

4. We have heard the learned counsel for the parties and have perused the material available on record. The Railway Board Circular dated 9.4.1997 (Annexure A/2) provides as under:-

" 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' 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.

*Chandigarh*

(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."

5. This Tribunal in OA No. 234/97 decided on 31.7.1997 in the case of Radhey Shyam Sharma vs. Union of India & Others has observed as follows:-

" In the circumstances, we direct that the respondents shall consider the applicant for regularisation against Group-C post of Mason, if he is senior enough to be considered for such regularisation and if vacancy in the post of Mason, a Group C post is available. Before undertaking this exercise, the respondents shall however determine the seniority position of the applicant, if not already done. Such regularisation shall also be subject to other rules and regulations prescribed on the subject."

6. In our considered view, the respondents being model employer should not reject the claim of the applicant on mere technical delays. If the respondents have given benefit to the similarly situated employees, they should have on their own extended the benefit to the applicant. In any case, the representation filed by the applicant dated 21.3.2001 (Annexure A/4) should have been disposed of and the applicant be informed as to why he should not be given the same benefit as has been given to his colleagues. Considering the facts of this case, we considered it desirable in the interest of justice to direct the respondents as follows:-

" The representation of the applicant which is pending should be decided and the contention raised in this OA be treated as supplementary representation. Respondent No. 2 is directed to take a decision in the matter by a speaking and reasoned order within a period of two months from the date of receipt of a copy of this order under intimation to the applicant."

7. In view of this direction, this OA is disposed of without any order as to costs.

(BHARAT BHUSHAN)  
MEMBER (J)

(R.K. UPADHYAYA)  
MEMBER (A)