

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Applications Nos. 3 and 4 of 2005

Quoted, this the 21st day of June, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

(1) Original Application No. 3 of 2005

Dinesh Kumar Ahirwar
S/o Shri R.P. Ahirwar
Aged 29 years
Bajrang Colony
New Katni Junction
Katni (M.P.)

Applicant


(By Advocate – Smt. S.Menon)

(2) Original Application No. 4 of 2005

1. Vijay Bathre
S/o Late Shri Karelal Bathre
Aged 38 years
R/o Near Dr. Vaish House
Civil Lines
Katni (M.P.)

(By Advocate – Smt. S.Menon)

V E R S U S

1. Union of India,
Through Secretary
Ministry of Railway
New Delhi.
 2. Government of India
Ministry of Railways
Through : its Secretary
Ministry of Railways
New Delhi.
 3. Divisional Railway Manager
West Central Railway
Jabalpur (M.P.)
- 

4. Railway Institute
Central Railway
Through : Its Secretary
New Katni Junction
Katni (M.P.)

Respondents

(By Advocate – Shri H.B. Shrivastava in both the OAs)

ORDER COMMON

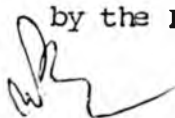
By M.P. Singh, Vice Chairman –

As the facts, law and relief claimed by the applicants in both the OAs are identical, therefore, we proceed to dispose of these OAs by passing a common order.

2. By filing the aforesaid Original Applications, the applicants have sought the following main relief :-

"I to direct respondents and in particular respondents No.1 & 2 to treat the applicant as regular railway servant from a retrospective date in Group D and be further pleased to direct that applicant is entitled for all the consequential and ancillary service benefits.

3. The brief facts of both the cases are that the applicant in OA No.3/05 is working^{as}/Assistant Librarian since 1.6.1992, and the applicant in OANo.4/05 is working as Librarian since 12.8.1987, in the Railway Institute, New Katni Junction, Katni. The respondent no.3, vide letter dated 7.7.1999, addressed to the Secretary, Central Railway Institute had called for the names of staff continuously functioning prior to 11.6.1997. The Secretary, Railway Institute, New Katni Junction, respondent no.4 vide letter dated 27.7.1999 informed about the status of all those employees who have been working in the Institute prior to 1997 and till date. The names of the applicants appeared at serial nos. 1 & 2. Another letter was issued by the Deputy Director Est(III), Railway Board dated 21.10.99



informing about the recruitment of staff working in the quasi administrative offices/organizations, connected with the Railways. It is submitted by the applicants that the Institute wherein the applicants are presently working falls under the quasi administrative office/ organization connected with Railways. The inaction of the respondents in not absorbing the applicants as Assistant Librarian/ Librarian on a Group-D post is not only illegal but also malafide and, therefore, deserves to be interfered with.

4. The respondents in their reply have stated that the Railway Board had issued instructions on 30.5.2000 as a one time exception that employees working in quasi administrative officers may be considered for absorption in Group-D posts as per the guidelines given in the said letter in regard to age and period of service rendered in such offices. The claim made by the applicants for absorption in Group-D posts cannot be considered in view of certain guidelines as given in the said letter dated 30.5.2000. According to the respondents the instructions issued by the Railway Board are clear that employees of quasi administrative offices are only entitled to be considered for absorption in Group-D post on fulfillment of conditions as given in the circular and the question of treating them as regular employees or allotting pay scales at par with regular employees does not arise at all. According to the respondents the applicants are working in Railway Institute at New Katni. The learned counsel for the respondents has also submitted that the certificates of working issued on 5.2.1994/10.7.2003 do not have any documentary evidence of having worked in the Institute, since these certificates have been issued by the succeeding Secretaries of the Institute on the basis of earlier certificates issued by other Secretaries. Moreover, the present Original Applications are beyond limitation.

MB

The learned counsel for the respondents has further submitted that as per the decision of the Hon'ble Supreme Court in the case of All India Railway Institute Employees Association, (1990) 2 SCC 542 the employees of Railway Institutes are not entitled to be treated as railway employees.

5. Heard the learned counsel of both the parties and we have given careful consideration to the arguments advanced on behalf of both the sides.

6. The question for consideration before us is whether the persons working at Railway Institute, New Katni Junction, Katni can be absorbed as permanent Group-D employees in the Railways as per the instructions issued by the Railway Board vide letter dated 30.5.2000. As per this letter the Railway Board has issued instructions that "as a one time realization, the Railway may consider absorption of only those staff of quasi-administrative offices organizations who were on roll continuously for a period of at least three years as on 10.6.1997 and are still on roll, subject to fulfilment of prescribed education qualification required for recruitment to Group-D posts. Such staff should have been engaged within the prescribed age limit, such absorption should be resorted to only after exhausting the list of ex-casual labour borne on the Live Casual Labour Registers/supplementary live casual Labour Register" Full particulars of both the applicants were sent to the respondents for consideration. The contention of the learned counsel for the respondents is that the Institute is not covered ^{by the} instructions issued by the Railway Board dated 30.5.2000. He has also doubted the veracity of the certificates issued to the applicants for having worked in the Railway Institute. As per these instructions only those staff of quasi-administrative offices/organizations are required to be absorbed who ..


were on roll continuously for a period of at least three years as on 10.6.1997 and are still on roll, subject to fulfilment of prescribed educational qualification required for recruitment to Group-D posts. According to the learned counsel for the respondents these applicants have not worked for three years and are not eligible. He has also submitted that as per the decision in the case of All India Railway Institute Employees Association (supra) the employees of Railway Institute are not entitled to be treated as railway employees. We find that as per the said judgment, the employees of the Railway Institute are not Railway employees. However, the Railway Board themselves, on the demand raised by the recognised staff federations, had issued the circular on 30.5.2000 for recruitment in Group-D category on the Railway, of the staff working in quasi administrative offices/ organisations connected with Railways, as a one time relaxation. As per the instructions issued on 30.5.2000, the staff of quasi administrative offices/organizations, who were on roll continuously for a period of three years as on 10.6.1997, are required to be absorbed as railway employees in Group-D posts, subject to their fulfilment of the conditions laid down in the said circular. The learned counsel for the respondents, ^{has stated} that the certificates issued to the applicant for having worked in the Railway Institute are not genuine whereas the learned counsel for the applicants has insisted that the certificates have been issued by the Secretaries of the Railway Institute and are genuine.

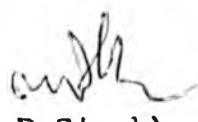
7. In the conspectus of the facts and circumstances of the case, we deem it appropriate to direct the General Manager, West Central Railway, Jabalpur to ascertain the genuineness of the certificates produced by the applicants. In case he is satisfied that these

persons have been working in the Institute from the date, they have claimed i.e. from 1987 and 1992 respectively, then these applicants may also be considered for absorption against Group-D posts in the Railways in terms of the instructions issued by the Railway Board vide letter dated 30.5.2000, if otherwise found eligible in accordance with the rules. With regard to the age, the period of service rendered by the applicants will be excluded for determining the age of the applicant for considering them for regularisation.

8. Before we may part, we may observe that the ground of limitation taken by the learned counsel for the respondents has no force and is rejected.

9. In the result, both the Original Applications are disposed of with the directions contained in paragraph 7 above. No costs.


(Madan Mohan)
Judicial Member


(M. P. Singh)
Vice Chairman