

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 901 of 2004

Jabalpur, this the 16th day of December, 2004

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

Mushtaq Ahmed aged about 37 years,
Son of Shri Nihal Ahmed, resident of
Iswaripura Ward, Katni,

and another. Applicants

(By Advocate – Shri Satya Vijay)

V e r s u s

Union of India, through General Manager,
West Central Railway, Near Railway Hospital
Jabalpur,

and four others. Respondents

(By Advocate – Shri H.B. Shrivastava)

O R D E R (O r a l)

By M.P. Singh, Vice Chairman –

Although this case was listed for hearing on Interim relief, with the consent of both the parties we are disposing of this case finally. Heard the learned counsel for the parties at length.

2. By filing this Original Application the applicants have claimed the following main reliefs :

“(i) to issue a writ order or direction in the nature of certiorari quashing the order passed by the respondent No. 2 dt. 17.9.2004 (Annexure A1) to compilation No. 1 being the impugned order,

(ii) to issue a writ order or direction in the nature of mandamus directing the respondents to absorb and regularize the services of the applicants as Ticket Collectors as per the



scheme of the Volunteer Ticket Collectors which had been affirmed by the Hon'ble Tribunal Principal Bench at New Delhi and Hon'ble Supreme Court,

(iii) to issue a writ order or direction in the nature of mandamus directing the respondents to consider the case of the applicants for absorbing and regularizing them as Ticket Collectors vide notification issued by respondents No. 2 dt. 31.8.2004 which is going to be filled up from 33.33% of departmental quota."

3. The learned counsel for the applicants stated that the applicants who were working as Group-D employee as Gangman were asked to work as Ticket Collectors. Although, the respondents in their reply have stated that the applicants have been reverted to their substantive post of Group-D, they are still working as Ticket Collectors. In this connection he has produced a copy of the letter dated 16th October, 2004 issued by the Railway Authority. He further stated that both the applicants are still being engaged as Ticket Collectors. The learned counsel for the applicant has also stated that the respondents vide letters dated 6th July, 2004 and 9th August, 2004 have declared them surplus in the grade of Gangman.

4. On the other hand the learned counsel for the respondents has stated that the applicants have been reverted to their substantive post of Group-D, vide order dated 17th September, 2004. Thereafter, vide another letter dated 11th October, 2004 they were directed to work as Gangman in their respective depots. The learned counsel for the respondents stated that the argument of the applicants that orders have been issued declaring them as surplus is denied as there was a clerical error on their part while issuing these orders. In this regard he has drawn our attention towards the affidavit filed by the Senior Divisional Engineer, West Central Railway, Jabalpur (Annexure R-2) in which it is stated that while directing the staff the word surplus was inadvertently mentioned in the office orders issued in this connection. The mistake occurred unintentionally and due to clerical mistake and needs necessary correction being genuine typographical error. The respondents further stated that while passing the order dated 17th September, 2004 it has been stated that the applicants are

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returned to their parent depot in Engineering Department, as there is acute shortage of staff in that department. Hence, there is no question of declaring them surplus in the grade of Gangman in Engineering Department.

4. We have given careful consideration to the rival contentions and we find that the applicants were appointed as Gangman which is a Group-D post on 20th September, 1999. Their services were required in the exigencies of work, to assist the Ticket Collectors. Now their services are no longer required and they have been reverted to their original Group-D post. It is an admitted position that the applicants were not duly selected as Ticket Collectors and has also not been appointed on regular basis after following the due procedures prescribed in the recruitment rules. The respondents appointed them only to help the Ticket Collectors and were not paid any additional remuneration for this work. Since the post of Ticket Collector is required to be filled up in accordance with recruitment rules and the applicants have never participated in the selection for the post of Ticket Collector they cannot be appointed on regular basis to the post of Ticket Collector, de hors the rules.

5. In the circumstances, we can only direct the respondents that in future as and when such work of assisting the Ticket Collectors on temporary basis ^{is} ~~are~~ required the applicants be granted preference over the fresh candidates. However, if the respondents have notified the vacancies of Ticket Collectors to fill up on regular basis the applicants may apply and will be considered by the respondents if they are otherwise found suitable for the said post.

6. With the above observations, the Original Application stands disposed of. No costs.

7. The Registry is directed to supply the copy of memo of parties to the parties while issuing the certified copies of this order.


(Madan Mohan)
Judicial Member
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(M.P. Singh)
Vice Chairman