

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.779/03

~~Cwallo~~ This the 8<sup>th</sup> December, 2004

CORAM

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

Kishan Prakash Saraswat  
Ex.Sub.Teacher, Rly. Primary School  
Bina, Central Railway, M.P.  
R/o C/o Shri R.N.Sharma  
15 Ramnagar, Rampur, Jabalpur

Applicant

( By advocate Shri M.R.Chandra)

Versus

1. Union of India through  
General Manager  
Central Railway, HQ.Office  
Mumbai-400 001.
2. The Divisional Railway Manager  
Bhopal Division, Central Railway  
Bhopal.
3. Chief Personnel Officer  
C.Rly. HQ Office, Mumbai  
CST, Mumbai.

Respondents.

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following main reliefs:

- (1) To direct the respondent Railway to appoint a Review Screening Committee and consider the case of the applicant for his regularisation and absorption as Asstt. Teacher in the grade Rs.4500/7000 and assign him due seniority considering his past service as an adhoc substitute Asstt. Teacher.
2. The brief facts of the case are that having all the eligibility conditions, the applicant applied for the post of Assistant Primary Teacher on adhoc basis in August 1998. The applicant was ordered to appear before the Screening Committee on 12.10.98 with all requisite documents and certificates for suitability test and on being found suitable


and fit, the applicant was appointed as Substitute Assistant School Teacher, Railway School, Bina vide letter dated 18.12.98 for academic session up to 30.4.99 i.e. for Academic Session 1998-99 (Annexure A3). The applicant was allowed to continue in the second academic session also. He was appointed as a substitute Assistant Teacher in the scale of Rs.4500-7000 for the 3rd Academic Session 2000-2001 in English Medium School, Bina along with Smt.Vandana Kulsheshtra in Hindi Medium School, Bina. By order dated 28.4.01, the engagement of both Smt.Vandana Kulshreshtra and the applicant was dispensed with w.e.f. 30.4.01. The posts of substitute adhoc Assistant Teachers and their regularisation are controlled by the Headquarter office, CHTS, Mumbai through their respective Divisional Managers. Substitute school teachers are afforded temporary status after they have put in a continuous service of 3 months. Their services are to be treated as continuous for all purpose except seniority on their eventual absorption against regular post after selection. It has been laid down that substitutes who have acquired temporary status should be screened by a screening committee and not by a Selection Board, constituted for this purpose before being absorbed in regular Group 'C' and Group 'D' posts. In the above said process, Assistant Teachers engaged as substitutes in Grade 4500-7000 in Bhusawal, Nagapur and Manmad Division were regularised by the then Screening Committee on completion of 3 academic years of substitute service in the year 1998. Annexure A7 is filed in this regard. After disengagement of the applicant on 30.4.01, the applicant was not allowed further re-engagement for academic session 2001-02. The applicant was advised to wait. While so, the applicant came to know that Smt.Vandana Kulsreshtha who worked as Sub.



Assistant Teacher in Bina School upto academic session of 3 years and disengaged on 30.4.2001 along with the applicant, had appeared for the written test on 20.8.02 in connection with the regularisation of her service as Assistant Teacher (Annexure A8). When Vandana Kulsreshtha was considered for her regularisation, the applicant made a representation dated 17.10.02 complaining discrimination in not issuing call letter for screening test for regularisation. The respondent Railways deprived the applicant of his fundamental right for consideration for promotion or regularisation, when similarly situated candidate has been considered. Hence this OA is filed.

3. Heard learned counsel for both parties and carefully perused the records. It is argued on behalf of the applicant that the applicant has completed three academic sessions, as is shown at Sl.No.7 of Annexure R-6 and according to Annexure R4, teachers who have completed three academic sessions/years of service and whose names are not appearing in the list, should be intimated to that office by 10.11.2000. Annexure R4 is dated 17.10.2000. The service of Smt. Vandana was ordered to be dispensed with on the same day i.e. 30.4.01 as that of the applicant but the respondents have apparently discriminated against the applicant in that Smt. Vandana was called to appear in the Screening Test and she was selected but the applicant was not even called for screening test by the respondents. Hence the whole action of the respondents is against rules and law.

4. In reply, learned counsel for the respondents argued that the applicant had been given appointment as a fresh face substitute teacher on purely temporary and adhoc basis till the end of the academic session 1998-99 i.e. upto 30.4.99. After the termination of services of the applicant w.e.f. 30.4.01 due to the end of academic session 2000-01. In the academic session 2001-02 there was no regular vacancy of Assistant Teacher in Primary School, Bina. Therefore, the



applicant could not be re-engaged further nor his services could be regularised. The vacancy on which the applicant was working as substitute teacher was filled by the duly selected employee (Annexure R3). The date of appointment of Smt. Vandana Kulshreshtha as a substitute is 17.2.95 and on 30.4.2000 she had completed six academic years of service while the applicant has not completed even three academic sessions on 30.4.2000. Hence the applicant had not been considered for screening by Headquarters which was held on 20.8.02. The applicant has lesser years of service as a substitute teacher than Smt. Vandana Kulshreshtha. Hence the question of depriving the applicant's fundamental right does not arise. Appointment of teachers in Railway Schools is made through Railway Recruitment Board by process of selection from amongst the eligible candidates. Substitute teachers are engaged purely on temporary basis as a stop gap arrangement till such time the selected candidates become available from RRB. The teachers engaged as substitutes are free to apply for regular appointment through RRB. Hence the action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for both parties and a careful perusal of the records, we find that the applicant was appointed as a substitute Assistant Primary Teacher on adhoc basis in August 1998. He is comparing his case with Smt. Vandana Kulshreshtra while she was appointed on 17.2.95, i.e. more than three years before the applicant. The applicant was re-engaged for next two academic years also as a fresh face as substitute Assistant Teacher (English Medium) but he was not further engaged after the session of 2000 because the vacancy on which the applicant was working as substitute teacher was filled in by the respondents with duly selected candidates



vide order dated 22/25.6.01 (Annexure R-3). As Smt.Vandana has completed 6 academic sessions, hence she was called for screening test while the applicant has not completed even 3 academic sessions. Hence the applicant cannot say that the respondents have discriminated against the applicant. Substitute teachers are appointed as a stop gap arrangement till selected candidates become available from the Railway Recruitment Board.

6. After considering all the facts and circumstances of the case, we are of the considered opinion that the OA has no merit and hence the OA is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P.Singh)  
Vice Chairman

aa.

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....  
प्रतिनिधि ज्ञातव्यतः-

- (1) सचिव, उच्च न्यायालय एवं प्रत्यक्षीकरण, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यर्था श्री/श्रीमती/शु.....के काउंसल
- (4) न्यायालय, को.प्र.अ., जबलपुर ज्जादनीत सूचना एवं आवश्यक कार्यवाही हेतु

M. R. Chandra Das  
M. N. Banerjee

रजिस्ट्रार

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