

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 913 of 2002

Jabalpur, this the 25th day of August, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman(Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Loknath Singh aged about 57 years
S/o Shri Leeladhar, Chowkidar under
Senior Section Engineer (P.Way)
Broad-Guage, Central Railway,
Khandwa (M.P.)

APPLICANT

(By Advocate - Shri L.S. Rajput)

VERSUS

UNION OF INDIA, Through

1. The General Manager,
Central Railway,
Mumbai-CST (MAHARASHTRA)
2. The Divisional Railway Manager (P),
Central Railway,
Bhusawal (MAHARASHTRA)
3. The Chief Project Manager,
Railway Electrification,
RANCH(JHARKHAND)

RESPONDENTS

(By Advocate- Shri M.N. Banerjee)

O R D E R

By Anand Kumar Bhatt, Administrative Member -

This Original Application has been presented by Shri Loknath Singh against the order ^{dated} 31.12.1997 (Annexure A-1) regularising him in Group-D post and reducing his basic pay. The applicant has also requested that as the order dated 25.11.2002 (Annexure A-2) has not been passed by the D.R.M., ^{ne} Person^{al}, Bhusawal, as directed by this Tribunal in OA No. 587/2000, it should be quashed.

2. The facts in brief are that the applicant is a Licenced Driver initially engaged in Railway service and worked as a Driver at various places in Bhusawal and Bhopal Divisions including Construction and Railway Electrification. He was

working as a Casual Driver which is a Group-C Artisan post. After the project was completed the applicant was absorbed in Group-D as Gangman vide order dated 31.12.1997 (Annexure A-1) and his basic pay was also reduced. He approached the Tribunal on number of times in OA No. 101/1999, OA No. 346/2000, CCP No. 40/2000 and OA No. 587/2000. In the last OA decided on 09.09.2002 (Annexure A/12) the applicant was directed to represent again and the respondent No. 3 was directed to decide the representation of the applicant. In the meantime he was declared medically unfit for the post of Gangman on 27.03.2001 and was put to work as Watchman in the Grade of Rs. 2610-3560 (RSRP) vide order dated 27.04.2001 (Annexure A-15). The applicant is working on this post presently. As per directions given by the Tribunal in their order dated 09.09.2002 a speaking order was passed rejecting the representation of the applicant.

3. The main ground taken by the applicant is that his absorption in Group-D is against the Rule 2007 (3) of IREM Volume-II, 1990 and also against the order of the Railway Board dated 09.04.1997. Rule 2007(3) provides for regularisation of casual employees who have worked for a long period and can be absorbed in regular vacancies in skilled grades provided they have passed the requisite trade test to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. The Railway Board order dated 09.04.1997 has issued the decision of the Board for the regularisation of casual workers working in Group-C scales.

Para 3 of the said order is relevant which is as follows :

"3. The question of regularisation of the casual labour working in Group 'C' scales has been under considerations 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' 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) 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."

The learned counsel for the applicant stated that whereas the applicant should have been given the benefit of 3(ii), he has been considered under 3(iii) only, and thereby the said instructions had not been followed. He has stated that a few of his juniors who were working as casual truck/Jeep drivers have been regularised as Drivers Grade-III.

4. The respondents have on the other hand stated that the applicant was appointed only as a casual labour on 19.01.1984 in the Engineering Department and he was brought on Monthly Rated Casual Labour (MRCL) from 18.09.1988. In this capacity his services were utilised as Driver from 22.09.1987 against the work charged post under the IOW(RE), Bhopal(Itarsi). After completion of the work of the Railway Electrification the applicant was repatriated to his parent cadre where he was screened in Group-D post in accordance with the instructions of the Railway Board contained in letter dated 09.04.1997 (Original Application page 15). The learned counsel stated that the applicant was not eligible to be considered under 3(i) or 3(ii) and therefore he was considered under 3(iii) of the said order.

5. The learned counsel for the applicant has drawn our attention to a number of judgments given by the Tribunal, in favour of the applicant, which are similar in nature to that of

the present applicant. He has especially mentioned a recent order of this Tribunal in OA Nos. 870/1997, 871/1997 and 906/1997 passed on 07.03.2002.

6. Firstly, we do not agree with the contention of the learned counsel for the applicant regarding the validity of the order dated 25.11.2002 (page 12 of the OA). The applicant has never said that the order has not been passed by the competent authority and therefore the ground that the order was not passed as directed by the Tribunal vide order dated 09.09.2002 (Annexure A-12) cannot be acceded to.

7. The learned counsel for the respondents have drawn our attention to the Full Bench judgment of the Tribunal in OA No. 57/1996 passed on 30.10.2000, Aslam Khan Versus Union of India and others. This Full Bench judgment of the Tribunal was based on the decision of the Apex Court in the case of Union of India and another Versus Moti Lal and others reported in 1996(33)-ATC 304. In the said judgment para 2007(3) of I.R.E.M. Manual, 1990 has been discussed and it was held that the order of the Apex Court will prevail. In the Full Bench judgment it was held 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."

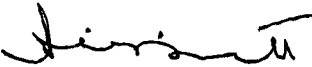
We find that the facts of this case is very similar to those of the present case. There the applicant was appointed as a regular Driver and was later absorbed/regularised on a Group-D post, and in the present case also the applicant is similarly placed. In view of this Full Bench judgment the various citations given by the learned counsel for the applicant which are of this Bench of the Tribunal only, do not stand, and we have to go by the Full Bench judgment. Accordingly we endorse the action of the

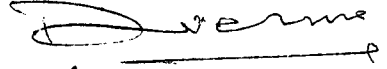
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respondents to absorb the applicant in a Group-D post.

8. It is not very clear in the reply given by the respondents, whether the applicant's pay has been protected or not, which the applicant has denied. This may be examined by the respondents and if his pay drawn as MRCL/Driver has not been protected on absorption in Group-D post the same shall be done, within 2 months from the date of receipt of copy of this order with all consequential benefits, including arrears of pay.

9. Original Application stands disposed of accordingly.


(Anand Kumar Bhatt)
Administrative Member



(D.C. Verma)
Vice Chairman (J)

"SA"

पृष्ठकल सं ओ/न्या.....जबलपुर, दि.....
प्रतिनिधि अर्थात् डाल:-

- (1) सचिव, उच्च न्यायालय राज एडमिनिस्ट्रेशन, जबलपुर
- (2) आदेशक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) कांयपाल, टोपरा, जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

LS. Rayat Adl.
MA. Banerji Adl.


29.8.03

Issued
on 29.8.03
BS