

**Central Administrative Tribunal
Principal Bench**

**RA No.253/2016
MA No.3266/2016
in
OA No.1432/2010**

New Delhi, this the 03rd day of November, 2017

**Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

1. The General Manager,
Northern Railway,
Baroda House, New Delhi.

2. The Divisional Railway Manager,
DRM Office,
State Entry Road, New Delhi.

... Review Applicants

(By Advocate: Shri S.M. Arif)

Versus

Shri Charan Singh
S/o Sh. Faquira Singh
Helper Safaiwala
Under Sr. Section Engineer (C&W)
Railway Station, Delhi.

... Review Respondent

(By Advocate: Ms. Meenu Mainee)

ORDER (ORAL)

Mr. V. Ajay Kumar, Member (J) :-

Heard both sides.

MA No.3266/2016

2. The respondent - Railways filed the instant RA along with MA No.3266/2016, seeking condonation of delay in filing the RA. In the circumstances and for the reasons stated therein and in the interest of justice, the delay in filing the RA is condoned. Accordingly, the MA is allowed.

RA No.253/2016

3. The OA No.1432/2010, filed by the applicant who is working as Helper Safaiwala on regular basis seeking a direction to the respondents to regularise his services in the same grade with effect from the year 1987 itself, in which year, he was screened for regularisation, was initially dismissed by this Tribunal by order dated 03.12.2012. However, the Hon'ble High Court in Writ Petition No.803/2012, filed by the applicant against the aforesaid order of the Tribunal, by setting aside the aforesaid order, remanded the matter back to this Tribunal for fresh disposal on merits.

4. While doing so, the Hon'ble High Court by its order dated 12.02.2013, observed that "applicant joined service under the respondents as a casual labour on July 01, 1977 and on the strength of having rendered adequate service as a casual labourer was appointed as a casual 'Safaiwala' on 22.1.1980. In the year 1984, he was chargesheeted and the same was dropped on 29.1.2008. Meanwhile, the applicant was screened in the year 1987 and his result was withheld for the reason that he was facing disciplinary proceedings. He was again appeared before the Screening Committee in 1995 and he was declared unsuitable probably for the same reason. Later on the respondents themselves regularised him in service w.e.f. 4.8.1997 after dropping of the disciplinary proceedings."

5. This Tribunal in pursuance of the aforesaid orders of the Hon'ble High Court reheard the matter and by its order dated 08.04.2015, allowed the OA and the relevant paragraphs read as under :-

"6. We have considered the submissions made by learned counsel for the parties. In view of the finding of the High Court, it is seen that this case could not have been dismissed on the ground of delay. The facts admitted by the respondents themselves are that the disciplinary proceedings were initiated against the applicant in the year 1984 and it was dropped only in 2008. Again, it is admitted by the respondents that the applicant was

subjected to screening in the years 1987 and 1995. On both occasions, he was not found suitable by Screening Committee due to the pendency of the disciplinary proceedings against him. When the respondents themselves have regularized the applicant in service from 4.8.1997, their submission that he was found unsuitable in the year 1995 as he has produced bogus casual labour service cards is not at all relevant now.

(No para with No.7)

8. In view of the above position, we allow this OA and direct the respondents to treat the applicant as a regular Safaiwala from 14.9.1987, i.e. the date from which his juniors have been regularized in service with all consequential benefits. Appropriate order in this regard shall be passed by the respondents within a period of two months from the date of receipt of a copy of this Order. There shall be no order as to costs.”

6. Shri S.M. Arif, learned counsel appearing for the review applicants would mainly contend that firstly there was no record available with the respondents whether the applicant was screened in the year 1987 or not and hence, the finding of this Court that he was screened in the year 1987 was an error apparent on face of the record. The learned counsel alternatively submits that even if the applicant was screened in the year 1987, he is not entitled for regularisation with effect from the said year, as he was found unfit due to pendency of the disciplinary proceedings at the relevant point of time.

7. On the other hand, Ms. Meenu Mainee, learned counsel appearing for the original applicant would submit that the Hon'ble High Court while remanding the matter back to this Tribunal, categorically observed that the applicant was screened in the year 1987 and non regularisation of the applicant with effect from the said year was admittedly due to the pendency of the disciplinary proceedings which was later closed by the respondents themselves and hence, the finding of this Tribunal that the applicant was entitled for regularisation with effect from 1987, is fully valid and that there is no error apparent on the face of the record, as contended by the learned counsel for review applicants.

8. A perusal of the order dated 08.04.2015 in OA No.1432/2010, supports the contentions of the learned counsel for the original applicant to the effect that the applicant was screened in the year 1987, and that his non regularisation from that year was only due to pendency of the disciplinary proceedings, which was later closed by respondents themselves.

9. In view of the above circumstances, we do not find any error apparent on the face of the record in the order dated 08.04.2015 in OA No.1432/2010 and accordingly, the RA is dismissed, being devoid of merits. No costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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