

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No-65/2014
MA No.1823/2015

Order Reserved on: 28.10.2015
Order Pronounced on: 15.03.2016

Hon'ble Mr. Sudhir Kumar, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Jai Gopal S/o Sh. Dhani Ram
R/o H. No. 76/4 Railway Colony
Kishanganj, New Delhi.
2. Mr. Kirpal Singh s/o Sangat Singh
Sr. Cc. R/o H. No. 70 A+B Bhoor
Bharat Nagar Ghaziabad U.P.
3. Subhash Chand s/o Dharam Singh
R/o H. No. 145 Mata Colony Sec-12
Vijay Nagar Ghaziabad U.P.
4. Sh. Mool Chand s/o Laxmi Chand
R/o H. No. E-105 Railway Loco Colony
Delhi Kishan Ganj Delhi-6.

-Applicants

(By Advocate: Shri Nasir Ahmed)

Versus

1. Union of India
Through
DRM (Northern Railway), DRM Office
Near New Delhi Railway Station, New Delhi
2. The Sr. Divisional Personal Officer,
Northern Railway, State Entry Road,
New Delhi.

-Respondents

(By Advocate: Shri A.K. Srivastava)

O R D E R

Per Sudhir Kumar, Member (A):

MA No.1823/2015 filed by the learned counsel for the applicants praying for early hearing stands disposed of.

2 The four applicants of this OA are before this Tribunal aggrieved by the respondents not having taken cognizance of their representations dated 15.05.2013, 16.06.2013 etc., and to reminders and legal notices dated 20.09.2013, 26.09.2013, 27.09.2013 etc. regarding regularization of the applicants as Mobile Booking Clerks (MBCs, in short), after completion of three years of continuous service from the date of their initial appointment, with consequential seniority, and grant to them the reliefs, as granted to **Nand Kishor & Ors.** (21 MBCs), in view of the orders of this Tribunal, Hon'ble Delhi High Court and Hon'ble Supreme Court of India in their case.

3. The Scheme for induction of MBCs by the Respondents can best be described briefly in the words of the Hon'ble Delhi High Court in its judgment dated 01.11.2010 in W.P. (C) No.1932/2005 **Union of India vs. Nand Kishore & Ors.** with W.P. (C) No.7894/2005 **Union of India vs. S.K. Sharma & Ors.**, to which case the present applicants have also alluded to, as follows:-

“1. Since common question of law arises for consideration in the two captioned writ petitions, arguments were heard in both the matters on 18.10.2010 and decision was reserved. The present judgment decides both the writ petitions. Pertaining to W.P.(C) No.1932/2005 the relevant facts are that in the third report on commercial and allied matters published in the year 1991 Railway Convention Committee made recommendations for the employment of children and dependants of railway employees as Mobile Booking Clerks. The relevant portion of the said report reads as under:-

“The committee appreciate the idea of requisitioning the services of volunteers from amongst students sons/daughters and dependants of railway employees as Mobile Booking Clerks of work outside their college hours on payment of some honorarium during peak season or short rush periods. Such an arrangement would not only help the low paid railway employees to supplement their income but also generate among the students an urge to lend a helping hand to the railway administration in eradicating ticket less travel. The committee would, therefore, like the Ministry of Railways to take active steps to extend this system wherever it may be warranted. At the same time care will have to be taken to see that vested interest do not develop and that the objective of curbing the incidence of ticket less travel is efficiently subserved with due regard to the need for effecting economy in all areas of Railway operation.”

2. Vide circular No.70-Tel/106/68 issued in the year 1973, the Railway Board accepted the aforesaid recommendations of the Committee and framed a scheme for employment of volunteers from amongst the children and dependants of Railway employees as Mobile Booking Clerks and employed hundreds of persons under the said scheme. Thereafter on 14.08.1981 a decision was taken by the Railway Board to discontinue the said scheme. Relevant would it be to note that the ethos to appoint children and dependants of railway employees as Mobile Booking Clerks was, as noted by the Committee, relevant extract whereof has been noted in para 1 above, they having gained knowledge in the field of booking and issuing tickets during peak seasons.
3. On 21.04.1982 circular No.E(NG)II-77/RC1/80 was issued by the General Manager, All Indian Railways, regularizing the services of the persons who were engaged as Mobile Booking Clerks and had put in three years service as Mobile Booking Clerks. The said circular reads as under:-

“The question of regularization of these Volunteer Booking Clerks through screening by a Departmental Committee of absorption on the Railways was again discussed by the NFIR during the PNM meeting held with the Board on 23rd and 24th December 1981. After taking into account all aspects of the case the Ministry of Railways have decided that these

Volunteer/Mobile Booking Clerks who have been engaged on the various Railways on certain rates of honorarium per hour or per day, may be considered by you for absorption against regular vacancies provided that they have the minimum qualifications required for direct recruits and have put in a minimum of 3 years service as Volunteer/Mobile Booking Clerks. The screening for their absorption should be done by a Committee of Officers including the Chairman or a Member of the Railway Service Commission concerned.”

4. On 20.04.1985 another circular was issued by the General Manager, All Indian Railways, regularizing the services of the persons who were engaged as Mobile Booking Clerks prior to 14.08.1981 and had put in three years service as Mobile Booking Clerks till 20.04.1985. The said circular reads as under:-

“The question of regularization of these Volunteer Booking Clerks through screening by a Departmental Committee of absorption on the Railways was again discussed by the NFIR during the PNM meeting held with the Board on 23rd and 24th December 1981. After taking into account all aspects of the case the Ministry of Railways have decided that these Volunteer/Mobile Booking Clerks who have been engaged on the various Railways on certain rates of honorarium per hour or per day, may be considered by you for absorption against regular vacancies provided that they have the minimum qualifications required for direct recruits and have put in a minimum of 3 years service as Volunteer/Mobile Booking Clerks. The screening for their absorption should be done by a Committee of Officers including the Chairman or a Member of the Railway Service Commission concerned.

Representations have been received in this Ministry that the absorption in regular employment of Voluntary/Mobile Booking Clerks who were engaged as such prior to 14.8.81 and who have since completed three years the matter has been examined and it has been decided that the Voluntary/Mobile Booking Clerks who were engaged prior to 14.8.81 may also be considered for regular absorption against regular vacancies on the same terms and conditions as stipulated in Ministry’s letter NoE

(NG)II/77/RC1/80 dated 21.4.1982 except that to be eligible for screening a candidate should inter alia be within the prescribed age limit after taking into account the total period of his initial engagement as Voluntary/Mobile Booking Clerks.”

5. The respondents Nos.1 to 21 of W.P.(C) No.1932/2005 and some other persons were engaged as Mobile Booking Clerks between 01.01.1985 to 17.11.1986. Since they did not fulfill the conditions prescribed in the circulars dated 21.04.1982 and 20.04.1985 the Railway Board terminated the services of the respondents Nos.1 to 21 and such other persons on 15.12.1986.

6. Aggrieved by the termination of their services by the Railway Board, the respondents Nos.1 to 21 filed an application bearing No.1174/1986 under Section 19, Administrative Tribunals Act, 1985 before Principal Bench, Central Administrative Tribunal, New Delhi.

7. After holding that although Railway Board decided to discontinue the scheme in question with effect from 14.08.1981 the same continued till 17.11.1986 and therefore 17.11.1986 should be taken as cut-off date for regularization of the services of Mobile Booking Clerks instead of 14.08.1981 vide judgment dated 28.08.1987 the Tribunal allowed the application of the respondents Nos.1 to 21. The relevant portion of the said judgment reads as under:-

“In view of the above discussion, the application is allowed. The instructions conveyed in communication dated 15.12.1986 (Annexure A2) regarding discharge of Mobile Booking Clerks in so far as it relates to the applicants is hereby quashed. It is further directed that all the applicants herein who were engaged on or before 17.11.1986 shall be regularized and absorbed against regular posts after they have completed three years of service from the date of their initial engagement subject to their fulfilling all other conditions in regard to qualifications etc. as contained in circulars dated 21.4.1982 and 20.4.1985....”

8. It be noted here that similar applications were filed by some other persons who were similarly situated as the respondents Nos.1 to 21, which applications were also allowed by the Tribunal in terms of the afore-noted judgment dated 28.08.1987 passed by the Tribunal in O.A. No.1174/1986. (See the judgments dated 29.05.1989 and

29.10.1992 passed by the Tribunal in the decisions reported as Usha Kumari Anand & Ors v Union of India & Ors ATR 1989 (2) CAT 37 and Pradeep Kumar Srivastava & Ors v Union of India & Ors ATR 1993 (1) CAT 185

9. Aggrieved by the afore-noted judgment dated 28.08.1987 passed by the Tribunal, Ministry of Railways, Union of India i.e. the petitioner filed a Petition for Special Leave to Appeal under Article 136 of Constitution of India before Supreme Court, which petition was dismissed vide order dated 18.03.1988 in the following terms:-

“We see no merit in the petition. But after hearing both the sides we would clarify that for the sake of removing doubts the date 17/11/1986 as accepted by the Tribunal shall be the cut off date for those who have qualified by putting three years of service by 31/3/1987 are entitled to the benefit of the order.”

(Emphasis Supplied)

10. In view of the fact that the respondents Nos.1 to 21 had not put in three years of service as Mobile Booking Clerks by 31.03.1987 a letter dated 12.05.1988 was issued by the Railway Board terminating the services of the respondents Nos.1 to 21.

11. Aggrieved by the termination of their services, the respondents Nos.1 to 21 filed application(s) under Section 19, Administrative Tribunals Act, 1985 before the Tribunal. In view of the directions contained in the afore-noted order dated 18.03.1988 passed by Supreme Court the Tribunal dismissed the application(s) filed by the respondents Nos.1 to 21 vide order dated 17.05.1988.

12. Aggrieved by the order dated 17.05.1988 passed by the Tribunal, the respondents Nos.1 to 21 filed a Petition for Special Leave to Appeal under Article 136 of Constitution of India before Supreme Court. Vide order dated 30.09.1988 Supreme Court recalled its earlier order dated 18.03.1988. Thereafter vide order dated 20.02.1989 Supreme Court finally disposed of the petition in the following terms:-

“The Tribunal disposed of the claim by referring to the directions of this Court dated 18th March, 1988 in Special Leave Petition No.14618/87. In the meantime, the order dated 18th March, 1988, has been recalled and the Special Leave Petition is yet to be heard. In the circumstances, the impugned order of the Tribunal dt. 17/5/1988, is vacated and the matter

shall stand restored before the Tribunal for disposal in accordance with law.”

(Emphasis Supplied)

13. In view of the directions contained in the afore-noted order dated 20.02.1989 passed by the Supreme Court, the application(s) filed by the respondents Nos.1 to 21 were restored before the Tribunal. Following the dictum laid down by the Tribunal in its earlier judgment dated 20.08.1987 passed in O.A. No.1174/1986 the Tribunal allowed the applications filed by the respondents Nos.1 to 21 vide judgment dated 04.06.1990. The relevant portion of the said judgment reads as under:-

“15. In view of the above discussion, we order and direct that respondents shall:

(i) regularize the Mobile Booking Clerks who were engaged prior to 17/11/86 by absorption against regular vacancies on completion of three years service and not actual 1095 working days. This will be, however, subject to the fulfillment of other conditions as provided in the Railway Board’s letters dt. 21/4/1982 and 20/4/1985.

(ii) confer temporary status with attending benefits on the applicants after they have completed four months service as Mobile Booking Clerks in accordance with the terms of their initial engagement. The period of four months shall be counted irrespective of number of hours put in on any particular day, having regard to the fact that the services of the Mobile Booking Clerks were available for full days.”

14. In view of the afore-noted judgment dated 04.06.1990 passed by the Tribunal, the services of the respondents Nos.1 to 21 were regularized and thereafter they were sent to Chaundasi, Uttar Pradesh to undergo training which was required to be undergone by the persons before being directly recruited to the post of Booking Clerk.

15 to 45 xxxxxxx (not reproduced here)”.

4. The four applicants before us have claimed to have been appointed as MBCs on 06.05.1981, on 10.04.1985, on 17.01.1983 and on 10.10.1979, respectively, as per Para 4.6 of the OA. The case of the present four applicants is that the respondents have extended the similar seniority benefit as in the case of 21 MBCs involved in the case of **Nand Kishore & Ors.** in OA No.551/2002 decided by this Tribunal to 132 MBCs of Delhi Division out of 168 such MBCs, which had come through on different dates, through Tribunal's/Court's orders. They have given the details in Para 4.8 of the OA as under:-

- “1) Total number of MBCs 168 identified over Delhi Division.
- 2) No. of staff granted the benefit as per court's order:-
 - (a) O.A. No.551/02 filed by Sh. Nand Kishore & Ors.-21
 - (b) O.A. No.747/04 filed by Suryakant & Ors.-11
 - (c) Hem Ram & another-2.
 - (d) O.A. No. 3128/12 filed by Shri Karamjit Kaur & Ors.-26.
 - (e) O.A. No.3129/12 filed by Sh. Chander Prakash & Ors.-24.
 - (f) O.A. No.3152/12 filed by Sh. Raja Ram & Ors.-10.
 - (g) O.A. No. 3153/12 filed by Smt. Kusum Malik & Ors.-33
 - (h) O.A. No. 3925/12 filed by Smt. Kavita Kumari & Ors.-3.
 - (i) O.A. No. 210/13 filed by Smt. Seema Gulati & Ors.-2,
- (3) Balance number of MBCs who have not come from the court, now identified-36”.

5. They have copied these particulars from the letter dated 02.07.2013 (Annexure A-11) sent by the Divisional Railway Manager (P), Northern Railway to General Manager (P), Northern Railway. The applicants have claimed that their case is entirely covered, and that they are entitled to same reliefs, but since the respondents have not taken any action upon

their representations and legal notices, they have had to approach this Tribunal through this OA.

6. In the grounds of the OA, the applicants have submitted that:-

- a) The respondents have not regularized the applicants after completion of three years of continuous service from the date of their initial appointment as MBC, with consequential seniority, even after the directions of the Hon'ble Supreme Court of India in the case of **Nand Kishore & Ors.** (supra);
- b) The respondents are not providing them the same benefit and giving no response to the representations and legal notices is a violation of the principles of natural justice.

7. Therefore, the applicants have sought for the following reliefs in this OA:-

- “i) To allow the original application of the Applicants and call the original records of the respondents for the kind perusal of this Hon'ble Tribunal.
- ii) To direct the respondents to dispose of the representations, reminders, legal notices from dated 15.05.2013 to 26.09.2013 of the applicants by passing a speaking orders because this is fully covered matter as **Nand Kishor & Ors.** (21 MBCs).
- iii) To direct the respondents to regularize the applicants after completion of three years of continuous service from the date of their initial appointments (as MBC) with consequential seniority and grant the relief to the applicants as granted to Nand Kishor & Ors. (21 MBCs) as per the orders of Hon'ble CAT in OA No. 551/2002, Hon'ble Delhi High Court in Writ Petitions No. 1932/2005 & 7894/2005 and order of Hon'ble Supreme Court of India in SLP (Civil) Nos. 16361 and 16362 and in other similar OAs.
- iv) To pass any other further orders/directions as deemed fit and proper in the facts and circumstances of the case besides costs of this application may be passed in favour of the applicants and against the respondents by this humble Tribunal in the interest of justice”.

8. Along with their OA, the applicants had filed at Annexure A-1 (Colly.), copies of the various representations given by them, and at Annexure A-2 (Colly.) the various Legal Notices issued by the learned counsel who argued their case before us. At Annexure A-3 was a copy of an order dated 12.07.2000 in respect of regularization of 34 MBCs in Delhi Division, at Annexure A-4 was the date of re-engagement of applicant No.1 w.e.f. 07.02.1991. The applicants have thereafter filed copies of the letter dated 18.07.1985 in respect of the same 34 persons, letter dated 29.04.1985 in respect of Directorate of Training letter dated 11.04.2002 in regard to change in posting orders of 32 MBCs. At Annexure A-5 is the Service Book of Applicant No.2, at Annexure A-6 the letter dated 14.03.1996 granting Temporary Status after completion of 122 days of service in respect of Applicant No.3, and copies of the Service Book thereafter. At Annexure A-7 is an order granting MACP to a very large number of people. At Annexure A-8 is a copy of Notice dated 07.09.2012 promoting 285 persons as Sr. Commercial Clerks. At Annexure A-9 is a copy of the judgment of the Hon'ble Delhi High Court, and at Annexure A-10 a copy of order dated 11.01.2010 assigning consequential seniority to the 21 applicants of OA No.551/2002 (supra). Annexure A-11 has already been referred to above.

9. The respondents filed their counter reply on 10.07.2014. Through this, they had explained the facts of the case, as already reproduced above, as summarized by the Hon'ble Delhi High Court in its order. Thereafter they had explained that in pursuance of the order passed by this Tribunal in OA Nos.551/2002, 3128/2012, 3129/2012, 3152/2012, 3925/2012 and 210/2013, the latter five of which cases had been decided at admission stage itself, 96 eligible persons had been identified, and had been granted appointment in the unified cadre of Commercial Clerks. It was submitted that a proposal has already been sent to HQ Office on 02.07.2013, which has been

reproduced by the applicants at Annexure A-11 in their OA, and has already been referred to above, for granting benefits only to such MBCs, who were presently working in the unified cadre, and stating that those MBCs, who had in the past been transferred and promoted to other cadres will not be entitled for such benefit, and that the staff who have retired will also not be granted any consequential seniority on that date, and also those who have been transferred on Inter Railway Transfer/ Divisions/Administrative/Mutual/own request transfer will not also be entitled for such benefit. However, it was submitted that the respective Division/Railway, where they are now working, may consider their cases for grant of such benefits to the persons concerned, in their respective seniority units.

10. Respondents also submitted that the present OA is barred by the provisions of Section 20 and 21 of the Administrative Tribunals Act, 1985, and it was submitted that reply had already been sent to the applicants through letter dated 30.10.2013, produced at Annexure R-1 along with the counter reply. The other averments of the applicants as made in the OA had been denied, and it was submitted that in the aforesaid facts and circumstances of the case, the OA presently filed by the applicants does not hold any merit, and is liable to be rejected with costs.

11. Heard. Before proceeding to decide about the prayers of the applicants, we must reproduce here the conclusion which was arrived at by the Hon'ble Delhi High Court, beyond the first 13 paragraphs already reproduced above, as follows:-

“33. According to the learned counsel for the petitioner, the expression 'In categories of posts partially filled by direct recruitment and partially by promotion, the criterion for determination of seniority should be.....the date of joining the working post after due process in the case of direct recruit" occurring in paragraph 302 when read with the note appended to the said paragraph shows that

in terms of paragraph 302 the seniority of a „direct recruit“ is to be reckoned from the date of his joining a particular post after having successfully completed training prescribed for the said post.

34. There is no difficulty with the aforesaid proposition advanced by the learned counsel for the petitioner. However, **the question is that whether the respondents Nos.1 to 21 in W.P. (C) 1932/2005 and the respondents Nos.1 to 11 in W.P. (C) 7894/2005 were the persons who were directly recruited to the post of Mobile Booking Clerk.**

35. The respondents in question were not appointed under the Recruitment Rules of the Railways. They were engaged in the Railways on temporary basis and their initial engagement was continued from time to time. At one point of time, the services of the respondents in question were terminated. However, on sympathetic and humanitarian considerations, by way of issuance of circulars dated 21.04.1982 and 20.04.1985 the Railways gave a concession to the persons who were similarly situated as the respondents in question by permanently absorbing them in the Railways subject to fulfillment of the conditions prescribed in the said circulars, which concession was directed to be extended to the respondents by various judicial decisions noted in forgoing paras.

36. In that view of the matter, the respondents in question cannot be treated as persons directly recruited to the post of Mobile Booking Clerk inasmuch as they were recruited in terms of special scheme contained in the circulars dated 21.04.1982 and 20.04.1985 issued by the Railways.

37. The necessary corollary thereof would be that the Tribunal has rightly held that the provisions of paragraph 302 of Indian Railways Establishment Manual do not apply in case of the respondents in question and thus the seniority of the respondents in question cannot be determined on the basis of provisions contained in paragraph 302.

38 & 39.xxxxxxxxx(Not reproduced here).

40. As noted herein above, the Tribunal had directed the petitioner to regularize the services of the respondents in question on the same conditions as contained in the circulars dated 21.04.1982 and 20.04.1985 issued by the Railways. The conditions stipulated in the said circulars for regularization of services were that the concerned person should be within the prescribed age limit and should have put in three years of service. No condition with respect to completion of training before regularization was prescribed in the said circulars. By insisting on completion of three years of service after training, the petitioner is making an innocuous attempt to introduce a new condition on the regularization of the services of the respondents in question.

41. The matter can also be looked at from another angle. There is no requirement under paragraph 129 that commercial clerk should have put in three years service after completion of his training. **The**

petitioner wants to read the expression “who have completed three years of service” occurring in paragraph 129 as “who have completed three years of service after training”. When the language used is clear and unambiguous, it is not permissible to add words in a provision or a rule.

42. This takes us to the decisions relied upon by the learned counsel for the petitioner.

43. The decisions relied upon by the learned counsel for the petitioner are no of assistance in the present case(s) for they stand on a complete different footing than the present case. In the said decisions, the issue of fixation of seniority of promotees or direct recruits was being considered by the Courts and thus paragraph 302 of Indian Railway Establishments Manual was clearly applicable whereas **in the present case paragraph 302 is not applicable for the respondents in question are neither promotees nor direct recruits as already held by us in foregoing paras.**

44. Before concluding it may be highlighted that the appointment of the respondents of the two writ petitions was the result of successive rounds of litigation and in each one of them they succeeded. As a result their induction got delayed. This has to be factored in. Besides, **their appointment was the result of an executive decision taken to induct them in service not as per the applicable service rules and even for said reason the issue of assignment of seniority to said respondents has to be considered with reference to justice been accorded to them at the core of any decision making process.**

45. In view of the above discussion, the above captioned petitions are dismissed. However, we refrain from imposing any cost.”

(Emphasis supplied)

12. It is clear from a conclusion as arrived at by the Hon'ble High Court in Para-35 to 37 of its judgment (supra) that MBCs were not appointed under the Recruitment Rules of the Railways. They were engaged in the Railways on temporary basis, and their initial engagement was continued from time to time, and at one point of time, their services were terminated also. However, later, on sympathetic and humanitarian considerations, through circulars dated 21.04.1982 and 20.04.1985, the Railways extended a concession to such terminated MBCs by permanently absorbing them in the Railways, subject to the fulfillment of the conditions prescribed in those two circulars.

13. Therefore, the Hon'ble High Court had concluded that the MBCs cannot be treated as persons directly recruited to the post concerned, inasmuch as they were recruited in terms of a special scheme. It was, therefore, further held by the Hon'ble High Court that since such MBCs were not directly recruited, and they were recruited in terms of a special scheme, Para-302 of the Indian Railways Establishment Manual (IREM, in short) does not apply in regard to determination of seniority of such persons.

14. The Hon'ble High Court had in Para-40 of its judgment (supra) also taken notice that the conditions prescribed in the circulars issued on sympathetic and humanitarian consideration on 21.04.1982 and 20.04.1985 were such that they stipulated regularization of such services of only those persons who were still within the prescribed age limit as on the date of such regularization, and that they should have put in three years of continuous service as MBCs as on the date of such regularization.

15. Since engagement as MBCs was not a direct recruitment, there could have been no condition of insisting on completion of three years of service after training, which training is mandatorily prescribed only in respect of persons directly recruited, as per the proper procedure for recruitments as laid down under the IREM, which has been held by the Hon'ble Apex Court to be a good law.

16. Since it has been clearly held by the Hon'ble High Court that Para-302 of the IREM cannot apply in the case of MBCs so regularized as they

were neither promotees, nor direct recruits, and their appointment was the result only of the administrative decision taken to induct them in service, which was not applicable in Rules, they cannot claim seniority either as direct recruits, or as promotees.

17. In the case of **Nand Kishore and Ors.** the Hon'ble High Court had in its judgment dated 01.11.2010 (supra) finally concluded and upheld the orders of this Tribunal dated 30.07.2004 that when no requirement of training was prescribed through Circulars dated 21.04.1982 and 20.04.1985 issued on humanitarian considerations, Respondent-Railways had committed an error in reckoning the seniority of those 21 persons from the date of completion of their training at Chandausi, instead of reckoning the same from the date of their initial engagement as MBCs. The Hon'ble High Court had, while rejecting the Writ Petitions before it, upheld on 01.11.2010 the orders of this Tribunal dated 30.07.2004 and 30.10.2004.

18. Therefore, in the instant case before us, if the applicants had fulfilled the conditions as prescribed in the two Circulars dated 21.04.1982 and 20.04.1985 (supra) issued on sympathetic and humanitarian considerations as on the date of their actual regularization, after three years of continuous service as MBCs, they would be entitled to seniority from the date of such regularization, below the lowest persons promoted or selected/appointed directly as on the date of their regularization, whether by way of direct recruitment, or by way of promotion, in substantive capacity. The applicants cannot seek seniority

from the date they were so engaged as MBCs, from the dates of their initial appointment, in view of the clear cut orders of the Hon'ble Delhi High Court, as reproduced by us above.

19. The OA is, therefore, disposed of in the light of the above detailed discussion, and it is directed that the respondents would examine in detail the cases of the four applicants before us, and, if they are found eligible for such regularisation, regularise their services, and place them at appropriate level of seniority in the cadre of Booking Clerks accordingly. The prayers as para 8 (ii) and 8 (iii) of the O.A. are, therefore, granted to the above extent. However, there shall be no order as to costs.

(Raj Vir Sharma)
Member (J)

(Sudhir Kumar)
Member (A)

cc.