

(1997) 04 SC CK 0156

In the Supreme Court Of India

Case No : Civil Appeal No. 9148 of 1994

Union of India (UOI) and Others

APPELLANT

Vs

Mukesh Srivastava and Others

RESPONDENT

Date of Decision : 03-04-1997

Acts Referred:

Citation : (1998) 9 JT 452 : (1997) 11 SCC 554 : (1998) SCC(L&S) 240

Hon'ble Judges : V. N. Khare, J; Sujata V. Manohar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We are informed that Respondent 3 is dead. The appeal against Respondent 3 abates. The remaining two respondents were engaged as Volunteer Ticket Collectors for a period of approximately one month from January to February 1987. Respondent 1 was engaged as Volunteer Ticket Collector from 25-1-1987 to 26-2-1987 while Respondent 2 was engaged as a Volunteer Ticket Collector from 24-1-1987 to 26-2-1987.

2. They claimed regularisation of their services on the basis of a scheme for regularisation which had come to an end on 17-11-1986, by filing an application before the Central Administrative Tribunal at Allahabad. This application has been allowed. Hence the appellants have filed the present appeal.

3. It seems that in or about 1973 there was a scheme framed by the Railway Board for regularisation of services of Volunteer Ticket Collectors who were temporarily appointed for meeting the rush of work on some special occasions such as "melas" or during the summer vacations. This scheme was discontinued on 14-8-1981. However, another scheme for regularisation of their services and their absorption against regular vacancies was framed in terms of the Railway Board Circular dated 21-4-1982 under which those Volunteer/Mobile Ticket Clerks who had been engaged on various Railways on certain rates of honorarium per hour per day may be considered for absorption against regular vacancies

provided they have the minimum qualification required for direct recruits and have put in a minimum of three years' service as Volunteer/Mobile Ticket Clerks. This scheme came to an end on and from 17-11-1986. The respondents were engaged as Volunteer Ticket Collectors for the first time on 24-1-1987 and 25-1-1987 after the discontinuation of the scheme.

4. The Tribunal has merely stated that since the services of Volunteer Ticket Clerks who were engaged prior to 17-11-1986 have been regularised, the services of the applicants also should be regularised, otherwise there would be discrimination.

5. In our view the Tribunal was not justified in coming to this conclusion. On the date when respondents were engaged there was no scheme for regularisation in exercise. On the date when their services were terminated also, there was no scheme for regularisation in existence. Their total service is only of one month. Even under the previous scheme which was discontinued on 17-11-1986, a minimum of 3 year' service was necessary for regularisation. The directions given by the Tribunal, therefore, cannot be upheld.

6. Learned Counsel for the respondents has relied upon certain decisions of the Central Administrative Tribunal dealing with Volunteer Ticket Collectors who were engaged during the subsistence of the scheme of regularisation. These are decisions in the case of *Neera Mehta v. Union of India* (1990) 12 ATC 249 ATR (1989) 1 CAT 380 being judgment and order dated 13-8-1989 (referred to in the impugned judgment of the Tribunal) and the decision in the case of *Usha Kumari Anand v. Union of India* ATR (1989) 2 CAT 37 Both these decisions pertain to Mobile Ticket Clerks employed in the Railways for various periods prior to 17-11-1986. These judgments have no relevance to the present case. He has also drawn out attention to a decision of this Court dated 27-7-1995 [J.S. Verma J. (as he then was) and K. Venkataswami, J.] in *Union of India v. Pradeep Kumar Srivastava* CA arising out of SLPs (C) Nos. 14756-61 of 1993, 11631 of 1994 and 20114 of 1993. The order in these appeals is also in respect of the Mobile Booking Clerks in the Railways who were employed for various periods prior to 17-11 -11986. This order also can have no application to the case of the respondents who are not covered by any scheme of regularisation and who were appointed after 17-11-1986.

7. The appeal is, therefore, allowed and the impugned order of the Tribunal insofar as it relates to Respondents 1 and 2 is set aside. No order as to costs.