

Supreme Court of India

Union Of India (Uoi) And Ors. vs Pradeep Kumar Srivastava And Ors. on 27 July, 1995

Equivalent citations: (1999) III LLJ 449 SC

Author: J Verma

Bench: J Verma, K Venkataswami

ORDER J.S. Verma, J.

1. Leave granted.

2. Heard.

3. The respondents in all these appeals have worked as Mobile Booking Clerks in the Railways for various periods prior to November 17, 1986. They challenged their disengagement from service and sought reinstatement and regularisation together with some other reliefs by filing applications before the Central Administrative Tribunal. The Tribunal has allowed those applications. These appeals by special leave have been filed by the Union of India against the orders made by the Tribunal in those applications. It is not necessary to mention the details of the directions given by the Tribunal in the impugned orders granting relief to the respondents for the reasons stated hereafter.

4. It is common ground before us that the facts of these appeals are the same as those in the matter relating to Usha Kumari Anand v. Union of India ATR (1989) 2 CAT 37 in which the Tribunal's order on similar applications is reported. It is also admitted that the special leave petitions filed against that decision were dismissed by this Court resulting in affirmation of the order made in Usha Kumari Anand's case ATR (1989) 2 CAT 37. It may also be mentioned that an earlier decision of the Tribunal in Neera Mehta v. Union of India ATR (1989) 1 CAT 380 is similar. The decision in Usha Kumari Anand's case (supra) is subsequent to that in Neera Mehta's case (supra). The special leave petitions filed against the Tribunal's order in Neera Mehta's case ATR (1989) 1 CAT 380 were also dismissed. A perusal of the Tribunal's decision in Neera Mehta's case and then in Usha Kumari Anand's case shows that the relief granted by the Tribunal in Neera Mehta's case was later extended also to the persons who were engaged prior to November 17, 1986. Admittedly, all the respondents with those cases we are concerned in these appeals also belong to the same category having been engaged prior to November 17, 1986 so that they also deserve to be given the same relief which was granted to similar employees in Usha Kumari Anand's case (supra).

5. Learned Counsel for the appellants, Union of India, however, tried to contend that the grant of temporary status to such employees as was done by the order in Usha Kumari Anand's case (supra) which has become final and has also been implemented, is not correct and requires reconsideration. We are afraid, it would not be appropriate to do so in these appeals which relate to employees of the same category, there being no fact to make any distinction on that basis in these appeals. Since there is complete identity of facts in these appeals and those in which the decision in Usha Kumari Anand's case (supra) was rendered and the employer also is the same, it would be unjust to reopen this question in these appeals. For this reason alone, we consider it inappropriate to re-examine the points which have been considered in the decision in Usha Kumari Anand's case (supra) as indicated

earlier. It is appropriate that we make, in these appeals also, the same order. Learned Counsel for the appellant appears to be right when he contends that the relief granted in the impugned order made by the Tribunal is in excess of that granted in Usha Kumari Anand's case.

To that extent, the Tribunal's order has to be modified.

6. In Usha Kumari Anand's case (supra) the concluding part of the Tribunal's order is as under:

Following the decisions of the Tribunal in Neera Mehta's case (supra) and Samir Kumar Mukherjee's case ATR (1986) 2 CAT 7 (Cal), we hold that the length of (he period of service put in by the applicant in itself is not relevant. Admittedly, all these applicants had been engaged as Mobile Booking Clerks before November 17, 1986. In the interest of justice, all of them deserve to be reinstated in service irrespective of the period of service put in by them. Those who have put in continuous service of more than 120 days, would he entitled to temporary status with all the attendant benefits. All persons should be considered for regularisation and permanent absorption in accordance with the provisions of the scheme. In the facts and circumstances of these cases, we do not, however, consider it appropriate to direct the respondents to pay back wages to the applicants on their reinstatement in service. The period of service already put in by them before their services were terminated, would no doubt, count for completion of 3 years' period of service which is one of the conditions for regularisation and absorption.

7. Accordingly, we dispose of these appeals giving the same direction as extracted from the Tribunal's order in Usha Kumari Anand's case (supra) and direct the appellants to examine the case of every respondent in accordance with the directions given in Usha Kumari Anand's case (supra) as contained in paras 37 and 38 of the Tribunal's judgment. This exercise would be performed by the appellant within a period of six months. No costs.