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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2745/2002

This the 30th day of June, 2003

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Bachan Singh S/O Bulaki Ram,
Lab. Khalasi.
Diesel Shed Laboratory,
Tughlakabad, New Delhi.
R/O 58, DIII Railway Colony,
Tughlakabad, New Delhi.
2. Mohd. Qudaus S/O Mohd. Shakur,
Lab. Khalasi.
Diesel Shed Laboratory,
Tughlakabad, New Delhi.
R/O 76-C/3, Railway Colony,
Tughlakabad, New Delhi.
3. Suresh Kumar S/O Om Prakash,
Lab. Khalasi.
Diesel Shed Laboratory,
Tughlakabad, New Delhi.
R/O 11-A, Railway Colony,
Tughlakabad, New Delhi.
4. Vikay Kumar Upadhyaya S/O J.Upadhyaya,
Lab. Khalasi, Diesel Shed Laboratory,
Tughlakabad, New Delhi.
R/O 52-C, Railway Colony,
Tughlakabad, New Delhi.

... Applicants

(By Shri K.N.R.Pillai, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Railways,
Rail Bhawan, New Delhi.
2. General Manager,
Northern Railway,
Baroda House, New Delhi.
3. Divisional Railway Manager,
Delhi Divn. Northern Railway,
State Entry Road,
New Delhi.
4. Chemist & Metallurgist.
Northern Railway,
Charbagh, Lucknow.

... Respondents

(By Shri V.S.R.Krishna, Advocate)

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ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicants were appointed as Lab. Khalasis on 10.4.1978, 18.10.1980, 1.4.1981 and 29.9.1985 respectively. According to them the prescribed qualification for the post is matriculation/higher secondary with science and all of them satisfy the said qualification. It has been stated on behalf of applicants that on 1.1.1984 there was a general re-classification of Group "D" staff on Railways when Lab. Khalasis were re-classified in two scales, i.e., Rs.2550-3200 and Rs.2650-4000. In para 168 of the Indian Railway Establishment Manual (1989 Edition) it is stated that Lab. Khalasis with the above qualification are entitled to promotion against 50% vacancies in the next higher grade of Lab. Assistants (Rs.975-1540/ Rs.3200-4900) (revised). Vide Annexure A-I dated 31.1.2001 applicants have claimed financial upgradation to the next higher scale in accordance with the existing hierarchy in that cadre under the Assured Career Progression (ACP) Scheme having not received any promotion for 12 years. Earlier on applicants had filed OA No.3459/2001 seeking benefit of financial upgradation under the ACP Scheme. The same was disposed of on 3.1.2002 directing respondents to dispose of applicants' representation of 31.1.2001 by a detailed speaking order. Respondents have by the impugned order dated 18.4.2002 (Annexure A-IV) rejected applicants' representation on the ground that they had already been re-classified from grade Rs.2550-3200 to Rs.2650-4000 and that no further financial upgradation was called for. It was also stated

therein that by an earlier order dated 8.10.2001 (Annexure A-VIII) the Divisional Railway Manager had already shifted applicants from the cadre of Lab. Khalasis to Diesel Cleaners and they had to seek further promotion in that line either as Diesel Assistants on the Running side or as Artisans. All Diesel Cleaners would be eligible to exercise an option for promotion as Lab. Assistants.

2. The learned counsel of respondents on the other hand stated that applicants excepting applicant No.4, Shri Vijay Kumar Upadhyaya, were promoted from the post of Lab. Khalasi to the next higher grade of Rs.2650-4000 on 1.1.1984. As regard applicant No.4 who had joined Delhi Division on inter-Railway transfer on request on acceptance of bottom seniority, he was given benefit of financial upgradation in grade Rs.2650-4000 (RSRP) under the ACP Scheme w.e.f. 1.10.1999 vide letter dated 7.3.2002 on completion of 12 years of regular service. The learned counsel stated that as the avenue of promotion in the cadre including Lab. Khalasis/Attendants is limited, as such it had been decided to merge all technical categories including the above cadre in Group "D" into one seniority unit of Diesel Cleaners with open avenue in their respective cadre and as Technicians (Diesel) simultaneously keeping the interest of employees as a whole in view. The category of Lab. Khalasis/Attendants was merged with the Diesel Cleaners on 8.10.2001. As such applicants apart from being considered for the post of Lab. Assistants in grade Rs.3050-4590 (RSRP) can seek promotion towards

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Artisan side. The learned counsel contended that the next post/grade of Lab. Khalasi/Lab. Attendant is not the post of Lab. Assistant with grade of Rs.975-1540 (RSRP). According to him, as per Railway Board's letter dated 17.8.1998 (Annexure A-VI) the following grades have been allotted to the post of Lab. Khalasis/Lab. Assistants :

"CATEGORY : LAB ATTENDANTS

Designation	Revised Scale	%age existing	%age Revised	Remarks	Qualifications & Procedure for filling up the Posts
Lab Attendant III	2550-3200	30	30	Existing	Recruitment Qualification 8th pass for future
Lab Attendant II	2610-3540	70	40	Existing	No change
Lab Attendant I	2650-4000	-	30	New Scale	Non-selection

Further, as per instructions contained in letter dated 6.8.1987 of Northern Railway Headquarters office, the benefit of restructuring to the Lab. Khalasis/Lab. Attendants can be given to them similarly as due for Artisan Khalasis. The post of Artisan Khalasi is restructured in the following manner from 1.3.1993 :

Khalasi	2250-3200	20%
Khalasi/Helper	2650-4000	80%

The learned counsel stated that the cadre of Lab. Khalasis along with other miscellaneous Khalasi in Diesel Sheds of Delhi Division having been merged in the cadre

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of Diesel Cleaners on 8.10.2001, applicants are designated as Diesel Cleaners and placed in grades Rs.2550-3200 and Rs.2650-4000. This merger has made them eligible for promotion to Technician cadre and other posts like Assistant Driver etc. The post of Lab. Assistants grade Rs.3050-4590 is a selection post which would now be filled from the optee Diesel Cleaners in the grades Rs.2550-3200 and Rs.2650-4000 possessing the requisite qualifications. The learned counsel stated that in the above background, applicants are not entitled to the claimed reliefs and, therefore, there is nothing wrong in the impugned order (Annexure A-IV).

3. The learned counsel of applicants admitted that applicants were initially in the pay scale of Rs.750-940/2550-3200 and that they had been promoted to the next higher scale of Rs.800-1150/2650-4000. While applicants 1 to 3 were promoted as above w.e.f. 1.1.1994, Shri Madan Gopal was promoted as such on 6.3.2000. Admittedly, the ACP Scheme came into existence in 1999 while applicants had already been placed in the scale of Rs.800-1150/2650-4000. This in terms of Annexure A-VI is the scale for Lab. Attendant-I. The next scale is that of Lab. Assistant-III, i.e., Rs.3050-4590. Under the ACP Scheme, these applicants are certainly entitled for financial upgradation in this scale on fulfilling the prescribed terms and conditions under the ACP Scheme. This entitlement of applicants could not be rebutted on behalf of respondents.

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4. Having regard to the above discussion, Annexure A-IV dated 18.4.2002 is quashed and set aside. Respondents are directed to consider applicants for grant of financial upgradation under the ACP Scheme to the scale of Rs.3050-4590 on meeting the prescribed terms and conditions under the ACP Scheme with consequential benefits as and when due.

5. The OA is allowed in the above terms. No costs.

S. Raju

(Shanker Raju)
Member (J)

V. K. Majotra

(V. K. Majotra)
Member (A)

/as/