

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 3256/2001
M.A. NO. 2681/2001
M.A. NO. 2762/2001
M.A. NO. 287/2002
with
O.A. NO. 557/2002
M.A. NO. 484/2002

This the 18th day of February, 2003.

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

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

O.A. NO. 3256/2001

1. Mukesh Kumar Malviya S/O Hari Shanker,
R/O 36, Ganeshpura Nagar, Jhansi.
2. Abrar Ali S/O Rashid Ali,
R/O 72 Mohalla Ilahabadi Pulia No.9,
Jhansi.
3. Deep Singh Yadav S/O Panna Lal Yadav,
R/O Insaitola Premnagar, Jhansi.
4. Andrews Peter S/O Raymond Peter,
R/O B-117, Awas Vikas Colony,
Nand Pura, Jhansi.
5. Prabhu Dayal Rajpal S/O Ganeshi Lal,
R/O 136 Gurudwara Nagar, Jhansi.
6. Dharmendra Kumar Yadav S/O B.L. Yadav,
R/O 85, Lalkurti Bazar, Jhansi.
7. Ratan Lal S/O Kishan Lal,
R/O 94, Lalkurti Bazar, Jhansi.
8. Brij Lal Yadav S/O N.D. Yadav,
R/O 175 Hansari Gwaltoli, Jhansi.
9. Sunder Singh S/O Bhuri Singh,
R/O 19/B, Mohalla School Pura,
Prem Nagar, Jhansi.
10. Rajendra Prasad S/O Kamta Prasad,
R/O 132, Nai Basti Chandghats,
Jhansi.
11. Suresh Kumar S/O L.L. Rawat,
R/O Village Khadera,
P.O. Ghatwar, Distt. Lalitpur.

(All are employed as
First Class Coach Attendants in
Central Railway, Commercial
Department, Jhansi).

12. Prem Pal Singh S/O Hameer Singh,
R/O New Janta Colony,
Near Mustafa Quarter,
Agra Cantt.

13. Ilahi Bux S/O Tahim Bux,
R/O Mustafa Quarter,
Railway Colony, Agra,

(Both are employed as
First Class Coach Attendants in
Central Railway, Commercial
Department, Agra Cantt.).

14. Jammo Ali S/O Ali Bux,
R/O 393/B Sultanpura,
Agra Cantt.

(Employed as First Class
Coach Attendant in the
Central Railway, Commercial
Department, Gwalior.)

... Applicants

(None present)

-versus-

1. Union of India through
Chairman, Railway Board,
Rail Bhawan, New Delhi-110001.

2. General Manager,
Central Railway,
Bombay VT.

3. Divisional Railway Manager,
Central Railway, Jhansi.

... Respondents

(By Shri R.L.Dhawan, Advocate)

O.A. NO. 557/2002

1. Kuldeep Awasthi S/O A.N.Awasthi,
R/O Tansen Road,
Near Local, Gwalior.

2. Shiv Kant,
R/O Near New Railway Colony,
Tansen Road, Gwalior.

3. Amar Bahadur S/O Ram Padrath,
R/O 6/19 Gudripura,
Premnagar, Gwalior.

4. Mahesh Chandra Bhargava S/O K.N.Bhargava,
R/O Azadnagar, Gwalior.

... Applicants

(None present)

-versus-



19

1. Union of India through
Chairman, Railway Board,
Rail Bhawan, New Delhi.
 2. General Manager,
Central Railway, Churchgate,
Mumbai.
 3. Divisional Railway Manager,
Central Railway, Jhansi. ... Respondents
- (By Shri R.L.Dhawan, Advocate)

O R D E R (ORAL)

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

M.A. Nos.2681/2001, 2762/2001 and 287/2002 have been filed in O.A. No.3256/2001 for joining together. Permission to join together is allowed and as such, all these three MAs stand disposed of. M.A. No.484/2002 in O.A. No.557/2002 for joining together in a single application is also allowed.

Applicants and their counsel in these OAs remained absent on quite a few hearings. On 6.1.2003 the cases were listed for 16.1.2003 with a clear direction that no further adjournment would be accorded to applicants, and if the learned counsel of applicants was unable to attend the Court on the next date of hearing, applicants must make alternative arrangements in accordance with law to present their case. On 16.1.2003 applicants remained unrepresented again. It was again made clear that if suitable arrangements were not made by applicants for presentation of their case and arguments, the case would be proceeded with for adjudication. On 18.2.2003 too, applicants and their counsel remained absent. In this background we proceeded to decide the case ex parte in terms of rule 15 of the Central Administrative Tribunal



(Procedure) Rules, 1987, after perusing the pleadings of the respective parties and hearing the arguments advanced by the learned counsel of respondents.

Facts and issues being identical, both these OAs are being disposed of by this common order.

2. In OA-3256/2001, applicants, 14 in all, were recruited as Khalasis at different Loco Sheds at Jhansi, Agra and Gwalior. In OA-557/2002 applicants, 4 in number, were recruited as Khalasis at Loco Shed, Gwalior. In both these OAs, Annexure-A dated 31.10.2001 has been assailed alleging that the deployment of applicants, among others, as Steam Loco surplus employees has been shown at the bottom of the seniority list instead of placement in respective slots as per service seniority in their own department.

3. Applicants while working as Khalasis/Helper Khalasis in Steam Loco Sheds were declared surplus due to closure of Steam Loco Sheds. Applicants were temporarily utilized as FCCA in the Commercial Department. The surplus staff including applicants were screened and posted as Khalasis in Electrical Loco Shed, Jhansi vide office order dated 30.10.1992. However, applicants chose not to join in TRS/TRD Department. 49 applicants including the applicants herein filed OA No.1370/1992 before the Allahabad Bench of the Tribunal challenging the transfer orders from Commercial Department to TRS/TRD Department. The OA was disposed of by the Tribunal vide order dated 1.8.1995 (Annexure R-1). It was held therein.

Handwritten signature

21

that applicants were not entitled for absorption in commercial Department. SLP No.11863/1995 was filed by applicants challenging the Tribunal's order of 1.8.1995 which was dismissed by the Hon'ble Supreme Court vide judgment dated 1.11.2000 (Annexure R-2) upholding the absorption of applicants in TRS/TRD Department. Taking the view that vacancies did not exist in TRS/TRD Department, respondents absorbed applicants in Carriage & Wagon Department instead of TRS/TRD Department vide office order dated 30.11.2000. This order was challenged before the Allahabad Bench of the Tribunal in OA No.1452/2000 by 36 applicants which included the applicants herein. That OA was disposed of by the Tribunal vide order dated 1.8.2001 (Annexure A-2) with the following observations/directions :

"7. Since the applicants stood absorbed in TRS/TRD sections, the respondents should have prepared a seniority list of the said sections giving place to the applicants in the said list after the judgment of the Apex Court was received by them and, thereafter, decide as to who should be considered surplus in TRS/TRD sections for being sent to other sections in organisation.

8. The respondents are, therefore, directed to make seniority list of Helper Khalasis and Khalasis in TRS/TRD sections and absorb those who were Helper Khalasis as they have shown that vacancy existed in the cadre of Helper Khalasi in TRS/TRD sections. Those who cannot be absorbed as Helper Khalasis shall find their places in the seniority list as per rules and only after that the persons to be sent out from TRS/TRD sections on the basis in accordance with instructions of the respondents contained in para 5 of the Master Circular dated 27.3.1991 on the subject of surplus staff and their redeployment. The respondents shall have three months to undertake this exercise based on these instructions shall, thereafter, assign persons to other sections like Carriage and Wagon department. The order dated 30.11.2000, which is impugned in this OA, is hereby set aside in

W

22

case of all the applicants who stood absorbed in TRS/TRD sections and have not joined Carriage and Wagon Department by way of implementation of the impugned orders."

4. In compliance of the directions of the Tribunal in OA No.1452/2000 the Railway administration issued order dated 31.10.2001 (Annexure-A) posting applicants in TRS/TRD Department. Applicants have alleged that respondents have posted applicants in TRS/TRD sections at the bottom seniority without restoring them to their original slots in the seniority lists. As such, applicants have sought quashing and setting aside of the impugned Annexure-A and direction to respondents to allocate appropriate seniority to applicants by restoring them to the appropriate slots in the seniority list vis-a-vis their immediate juniors, with consequential benefits.

5. Respondents fixed applicants' lien in TRS/TRD Department and assigned them seniority in TRS/TRD Department as per Annexure R-III dated 12.12.2001. Respondents have stated that they have fully complied with the directions of the Tribunal contained in order dated 1.8.2001 (Annexure A-2).

6. The learned counsel of respondents stated that whereas by order dated 31.10.2001 applicants were posted in TRS/TRD Department in compliance of the directions of the Allahabad Bench contained in order dated 1.8.2001, their provisional seniority was fixed as per Annexure R-4 dated 1.2.2002. It was made clear that the assigned seniority shall be taken into consideration for further

W

23

promotion. Objections, if any, were invited from the concerned within a period of one month. The learned counsel of respondents drew our attention to Annexure R-5 dated 8.3.2002 which is the final seniority list of Helper Khalasis in TRS Department wherein it has been stated that no objections had been received from anybody and as such the position indicated in the seniority list in respect of Helper Khalasis has been confirmed as displayed. The names of applicants in this have been inserted among the names of the existing staff in TRS Department taking into consideration their date of promotion as Helper Khalasi vis-a-vis the dates of promotion as Helper Khalasi of the existing staff in TRS Department.

7. Having regard to the directions contained in various judgments of the Courts as stated above, applicants have been rightly absorbed in TRS Department and they have been assigned proper seniority in the TRS Department as per Annexure R-5 taking into consideration their seniority in the Loco Sheds from where they have been rendered surplus and then absorbed in TRS/TRD Department.

8. Having regard to the above discussion, we do not find any infirmity in the action of respondents in absorbing applicants in TRS/TRD Department and fixing their seniority as per Annexure R-5. O.As are dismissed accordingly. No costs.

(Signature)
 (Kuldip Singh)
 Member (J)

(Signature)
 (V. K. Majotra)
 Member (A)

/as/