

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.588/2001  
with  
O.A. NO.566/2001  
O.A. NO.565/2001 ✓

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This the 13<sup>th</sup> day of December, 2002.

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

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

O.A. NO.588/2001

Smt. Kiran Bala,  
Material Checking Clerk (Ad-hoc)  
under Dy. Chief Engineer,  
Northern Railway, Patel Nagar,  
New Delhi.

... Applicant

-versus-

1. Union of India through  
General Manager,  
Northern Railway,  
Baroda House, New Delhi.
  2. Chief Administrative Officer (Construction),  
Northern Railway, Kashmere Gate,  
Delhi.
  3. Dy. Chief Engineer (Constn.),  
Northern Railway,  
Patel Nagar Station,  
Rama Road, New Delhi.
  4. Inspector of Works (Constn.),  
Northern Railway, Headquarters Office,  
Patel Nagar,  
New Delhi.
- ... Respondents

O.A. NO.566/2001

Mohammad Rehman S/O Khudi Sekh,  
Clerk (Ad hoc) under Dy. Chief  
Engineer (Constn.),  
Northern Railway, Shivaji Bridge,  
New Delhi.

... Applicant

-versus-

1. Union of India through  
General Manager, Northern Railway,  
Baroda House, New Delhi.
2. Chief Administrative Officer (Constn.),  
Northern Railway,  
Kashmere Gate, Delhi.

3. Dy. Chief Engineer (Constn.),  
Northern Railway, Shivaji Bridge,  
New Delhi.

... Respondents

O.A. NO. 565/2001

Vikas Sharma S/O R.P.Sharma,  
Material Cheeking Clerk  
under Deputy Chief Engineer (Constn.),  
Northern Railway,  
Patel Nagar Station Complex,  
Rama Road, New Delhi-110015.

... Applicant

-versus-

1. Union of India through  
General Manager,  
Northern Railway,  
Baroda House, New Delhi.
2. Chief Administrative Officer (Construction),  
Northern Railway, Kashmere Gate,  
Delhi.
3. Dy. Chief Engineer (Constn.),  
Northern Railway,  
Patel Nagar Station,  
Rama Road, New Delhi.
4. Inspector of Works (Constn.),  
Northern Railway, Headquarters Office,  
Patel Nagar,  
New Delhi.

... Respondents

( None present for applicants in OAs. Shri H.K.Gangwani,  
Advocate for Respondents in all the OAs)

O R D E R

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

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

OA No. 588/2001

Applicant, Smt. Kiran Bala, was engaged as casual labour  
works Khalasi w.e.f. 17.10.1980. She was granted  
temporary status as Khalasi w.e.f. 1.1.1984 in grade  
Rs.196/232/750-940 (RPS). She was utilized as Material  
Checking Clerk (MCC) in grade Rs.950-1500 w.e.f.  
24.3.1987 and was paid accordingly. She was screened as

office Khalasi and placed on provisional panel No.796 vide letters dated 23.3.1996 and 28.2.1997.

QA NO.565/2001

Applicant, Shri Vikas Sharma, was engaged as casual labour w.e.f. 14.11.1980. He worked as Khalasi w.e.f. 1.7.1981. He was granted temporary status as Khalasi w.e.f. 1.1.1984. He was utilized as MCC w.e.f. 15.5.1991 purely as local ad hoc arrangement. He was screened as per modified procedure of screening as Khalasi vide letters dated 23.3.1996 and 28.2.1997.

QA NO.566/2001

Applicant, Shri Mohd. Rehman, was appointed as temporary Khalasi on 8.1.1980. He acquired temporary status as Chowkidar w.e.f. 1.1.1984. He was working temporarily till 30.8.1997 on TLA. He was screened and regularised as Khalasi in Group 'D' in 1997.

2. On 3.10.2002 when these cases were taken up for final hearing, none appeared on behalf of applicants. Thus, we proceeded to decide these matters in terms of rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987. We considered the respective pleadings of parties, material on record and the arguments submitted by the learned counsel of respondents. Later on, before the dictation of the judgment, the learned counsel of applicants submitted written submissions on behalf of applicants which too have been taken into consideration.

3. It has been submitted on behalf of applicants that the General Manager, Northern Railway issued orders in December, 1991 to the effect that MCCs who had completed three years of ad hoc service on 31.12.1991 were to be considered for regularisation. The learned counsel stated that applicants in these OAs had completed three years before the cut off date of 31.12.1991 and are entitled for regularisation in terms of the instructions of the General Manager. The learned counsel relied on order dated 6.11.2001 in OA No.781/2001 (CAT, Principal Bench) : **Sulakhan Singh v. Union of India**, in which in a similar case, the applicant was held to be eligible for being considered for regularisation as MCC and the respondents were directed to consider the claim of the applicant for regularisation as MCC.

4. On the other hand, the learned counsel of respondents relied on CAT Full Bench order dated 4.12.2000 in OA No.103/1997 (Principal Bench) : **Ram Lubhaya & Ors. v. Union of India**, and connected cases, as also order dated 6.3.2002 in OA No.538/2001 (Principal Bench) : **Surinder Kumar v. Union of India**.

5. CAT, Jaipur Bench in its order dated 30.10.2000 in OA No.27/1996 : **Aslam Khan v. Union of India** held that a person who was directly engaged on group 'C' post (promotional post) on casual basis, and had subsequently been granted temporary status, would not be entitled to be regularised on group 'C' post directly but would be liable to be regularised in the feeder cadre in group 'D' post only. It was held by the Full Bench in the case of

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Ram Lubhaya (supra) that railway servants who hold lien in their parent cadre under a division of the railways and on being deputed to construction organisation and there having been promoted to higher posts on ad hoc basis and continue to function on those posts on ad hoc basis even for a very long time, would not be entitled to regularisation on those posts in construction organisation; they would be ~~would be~~ entitled to regularisation in their turn in their parent division/office, strictly in accordance with rules and instructions on the subject. This ruling in Ram Lubhaya's case has not been shown to have been stayed, modified or set aside.

6. Vide the impugned orders applicants were informed that their lien was being maintained in their parent divisions' right since their appointment/regularisation in group 'D' service. As their services were required in construction organisation for completion of various project works entrusted to that organisation, their services were utilized on ad hoc basis in construction organisation, and accordingly, they were paid wages for the work/duty performed. Now that the work entrusted to construction organisation was tapering off and almost nearing completion, their services in the construction organisation were no more required and as such, it was proposed to repatriate them to their parent divisions so that they could seek further advancement in their substantive cadre. The learned counsel admitted that Permanent Negotiating Machinery (PNM) meeting was held on 7/8.5.1987 at General Manager's level in which it

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was decided that staff working continuously as MCC on ad hoc basis for a period of three years or more may be regularised on the basis of their service record and viva voce, duly observing the extant instructions on the subject. This was to be treated as a one-time exception. It was further clarified by headquarters office letter dated 11/15.2.1991 that those employees who are holders of group 'D' posts and drafted from their respective divisions to work as MCCs on ad hoc basis for more than three years prior to 7/8.5.1987, i.e., the date on which the decision had been taken at PNM meeting, could be regularised. According to the learned counsel, cases of applicants did not fall within the General Manager's instructions as they were not holders of group 'D' posts when they were put to work as MCCs on ad hoc basis and as per the Full Bench decision of the Tribunal in Ram Lubhaya (supra) "Rules and instructions do not permit such regularisation and we, therefore, call upon the Railway authorities to take appropriate steps to ensure that such situations are avoided".

7. After considering the rival contentions, we hold that we are bound by the orders of the Full Bench in Ram Lubhaya (supra) as well as Aslam Khan (supra) neither of which has been shown to us to have been stayed, modified or set aside by any superior court of law. As such, we hold that applicants have no enforceable legal right to compel respondents to regularise them as MCCs in construction organisation from where they are being proposed to be repatriated to their parent divisions. However, they shall be entitled to pay

protection in accordance with rules and instructions and judicial pronouncements on the subject. On repatriation, applicants will have to wait in the queue in terms of their seniority in their substantive posts for further promotions as per law and rules on the subject.

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8. Having regard to the reasons stated above, we do not find any merit in these OAs which are dismissed accordingly. No costs.

( Kuldip Singh )  
Member (J)

/as/

( V. K. Majotra )  
Member (A)

Alta

Alta  
4/2/03

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