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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1707/1999

New Delhi, this 16th day of August, 2000

Hon'ble **Shri Justice** V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

1. Pardeep Kumar Gandhi
2. Baboo Lal
3. Ved Pal
4. Mahender Kumar
5. Dev Dutt Sharma
6. Rajender Kumar

All working as Storeman/Northern Railway
New Delhi .. Applicants

(Shri K.K. Patel, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Chief Admn. Officer (Const)
Northern Railway
Kashmere Gate, Delhi .. Respondents

(By Shri P.M.Ahlawat, Advocate)

ORDER(oral)

By **Shri Justice** V.Rajagopala Reddy

Heard the learned counsel for the applicants and the respondents. The case of the applicants is that they were initially appointed as Khalasis. They were posted as Storeman in the construction organisation and have been working there since 1984-87 till date. The present OA is filed for regularising them against Group C posts.

2. In the reply it is stated that the applicants were not regularised in Group D. They were working as Storeman in the grade of Rs.800-1150 (Group D) on purely temporary basis against sanctioned estimate of particular project. They are being transferred as Electric Khalasis on open line in divisions where they hold their lien on administrative grounds, having been

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declared surplus due to non-availability of sufficient work for all the workers/staff of the construction organisation. They were only regularised between 1984-86 and 1996 as Khalasis on their own willingness and are not having advancement as MCC or Clerk and they have been assigned lien on the Divisions. Learned counsel for the respondents therefore contends that the applicants are not entitled for regularisation as Storeman (Group C).

3. We have carefully considered the arguments. Though it is argued by the learned counsel for the respondents that the applicants were not regularised in Group D, it is clearly stated in the counter that they were regularised as Khalasis between 1984-86 and 1996. Thus it cannot be disputed that the applicants were not regularised as Khalasis (Group D). It is also not in dispute that the applicants were working after their regularisation from 1996 till date as Storeman in the construction organisation. Thus it is clear that the applicants have been working after their regularisation for more than three years as Storeman.

4. Learned counsel for the applicants relies upon the proceedings dated 13.2.97 wherein it was decided that Group D staff working as MCC on ad hoc basis in the Division as well as in construction department for more than three years are entitled for regularisation as Material Clerk on the basis of scrutiny of service records and viva voce test. It is also stated by the learned counsel that all group D staff working in construction organisation for more than 3 years after their regularisation as Group D have been regularised as

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MCC. He relies upon the decision in OA 1697/96 dated 30.3.200 (Yad Ram & Ors. Vs. UOI) where a direction was given by the Principal Bench of the Tribunal to consider regularisation of the Khalasis who ^{were} working as MCC/Clerks on ad hoc basis for more than 3 years, after scrutiny of their service records. It is also stated by the Tribunal that since the applicants have been working in their present posts for continuously more than three years, it would automatically give rise to a presumption that regular vacancies for the said posts exist. The OA was accordingly allowed directing regularisation of the applicants therein. In the present case, it is not in doubt that the applicants have been working as Storeman for the last several years and for more than 3 years after regularisation. Learned counsel for the applicants also brings to our notice, proceedings dated 9.9.99 where several employees working on ad hoc basis as MCCs have been regularised. When MCCs were given the benefit of regularisation, there can be no reason why the storeman who perform the similar functions would be denied of the benefit.

6. In the circumstances, respondents are directed to consider regularisation of the applicants as Storeman/Material Clerk in the grade of Rs.800-1150 within a period of 3 months from the date of receipt of a copy of this order. They are not entitled for the upgraded scale as claimed. The OA is accordingly disposed of. No costs.

Shanta
(Smt. Shanta Shastry)
Member(A)

Om Prakash Reddy
(V.Rajagopala Reddy)
Vice-Chairman(J)

/gtv/