

(18)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 661/97
MA NO. 762/97
with
OA NO. 222/99

New Delhi, this the 17th day of October, 2000

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

OA NO. 661/97

1. Sher Singh
S/o Nand Giri,
V&PO Datauli
Distt. Sonipat (Haryana).
2. Mahabir,
S/o Sh. Pyare Lal,
V&PO Dhansauli,
Distt. Panipat (Haryana).
3. Dinesh
S/o Puttu Lal,
Shiva Camp, Rajapur Nangali,
Hazarat Nizamuddin Rly. Stn.
New Delhi.
4. Hoshiyar Singh,
S/o Sh. Bhagwana,
Shiva Camp, Rajapur Nangali,
Hazarat Nizamuddin Rly. Stn.
New Delhi.
5. Anand Prakash,
S/o Sh. Ram Khilawan,
Shiva Camp, Rajapur Nangali,
Hazarat Nizamuddin Rly. Stn.
New Delhi.
6. Lakhan
S/o Sh. Charan,
Shiva Camp, Rajapur Nangali,
Hazarat Nizamuddin Rly. Stn.
New Delhi.
7. Jagat Prakash,
S/o Sh. Mali Ram,
Hazarat Nizamuddin,
New Delhi.
8. Rameshwar,
S/o Sh. Narsingh,
High Skilled Blacksmith,
Office of Dy. Chief Engineer (Constrn.),
Northern Railway, Patel Nagar,
New Delhi.

9. Ram Prakash,
High Skilled Blacksmith,
Office of Dy. Chief Engineer (Constrn.),
Northern Railway, Patel Nagar,
New Delhi.

10. Shyam Lal,
S/o Raghu,
High Skilled Blacksmith,
Office of Dy. Chief Engineer (Constrn.),
Northern Railway, Patel Nagar,
New Delhi.

11. Asha Ram,
S/o Sh. Tilak Ram,
High Skilled Blacksmith,
Office of Dy. Chief Engineer (Constrn.),
Northern Railway, Patel Nagar,
New Delhi. Applicants
(By Advocate: Sh. Anis Suhrabardy)

OA NO. 222/99

1. Ishwar (Mate),
S/o Santu Ram,
C/o The Dy. Chief Engineer (Construction),
Northern Railway,
Patel Nagar,
New Delhi.

2. Siya Ram, (Mistry Black Smith),
S/o Panna Lal,
C/o The Dy. Chief Engineer (Construction),
Northern Railway,
Patel Nagar,
New Delhi. Applicants
(By Advocate: Sh. Anis Suhrabardy)

VS.

1. Union of India
through the Chairman
Railway Board,
Rail Bhavan
New Delhi.

2. General Manager,
Northern Railway,
Baroda House,
New Delhi.

3. The Chief Administrative Officer,
Northern Railway
Kashmere Gate,
Delhi.

4. The Dy. Chief Engineer (Construction),
Northern Railway,
Patel Nagar,
New Delhi. Respondents
(By Advocate: Sh. P.M.Ahlawat in OA-661/97 and
Sh. R.P.Agarwal in OA-222/99).

ORDER (ORAL)

By Mr. Justice V.Rajagopala Reddy,

Heard the counsel for the applicant and the respondents. As these two OAs involve the same questions, they are disposed of by a common order.

2. The applicants have been regularised in Group 'D' posts of Gangman/Khallasai in the Railways. They have, however, been asked to work in the Construction Organisation in the posts of casual Mates (group 'C'). They have thus been working for the last 15 years in the Construction Organisation drawing the higher scale of Mates. In the impugned order the applicants have been reverted to their substantive posts of Gangman/Khallasai, as they were found surplus in the Construction Organisation. The grievance of the applicants is that as they have been working in Group 'C' posts, they should be regularised in Group 'C' as per the rules under IREM Vol.2. It is the stand of the respondents that as the applicants have been regularised in Group 'D' unless they are promoted to Group 'C' in accordance with the rules, after considering their seniority to Group 'C'. Mere working in Group 'C' posts in the Construction Organisation would not confer any right for regularisation in Group 'C' post. It is, therefore, submitted that the applicants have been rightly reverted to Group 'D' post being their substantive post as they were found surplus in the Construction Organisation.

3. We have given careful consideration to the submissions made by the learned counsel. It is not in dispute that the applicants have been regularised in Group 'D' posts. The promotion to Group 'C' is by way of promotion from Group 'D' in accordance with the rules upon consideration of the rival claims. But the applicants have worked for several years as

casual mates and were drawing higher pay scale. On repatriation the applicants have to be posted only as Gangman or Khallasi, being their substantive post in the lower scales. As contended by the learned counsel for the respondents as the Mates worked in the Construction Organisation on ad hoc basis it would not confer any right to the applicants for continuing in group 'C' post. It is, however, seen that the applicants would suffer serious hardship after several years of working in the Construction Organisation and drawing the pay scale of mates they are now asked to put up with the lower scale.

4. In the circumstances, and also in view of the judgments of the Supreme Court in Ram Kumar and others vs. Union of India and others 1988 (2) SCR 138 and Union of India vs. Moti Lal and others, 1996 (33) ATC 304 the pay of the applicants has to be protected by way of personal pay till they were considered and promoted to Group 'C' in open line in accordance with the relevant rules.

5. Accordingly, the respondents shall protect the pay of the applicants as drawn by them in Construction Organisation in Group 'C' as casual Mate, by way of personal pay, till they were promoted in accordance with the rules of promotion in the open line. The OA is accordingly disposed of. No order as to costs.

(. GOVINDAN S. TAMPI)
Member (A)

(V.RAJAGOPALA REDDY)
Vice Chairman (J)

100/-
sd'

Original judgment placed in on 6/6/1997

Attest: 24
6.c. Srinath
B.C. Srinath
C.Q.C.Q