

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2322/1999

New Delhi this the 17th day of November, 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

1. Gulam Ali S/O Bachu, working as Sarang (Skilled Artisan) in the Office of Sr. Signalling & Telecommunication Engineer (IRKOT), Moradabad.
2. Bhadei Rai S/O Ganau Rai, working as Rigger (Skilled Artisan) in the Office of Sr. Signalling & Telecommunication Engineer (IRKOT), Moradabad. Applicants

(By Shri K. K. Patel, Advocate)

-Versus-

1. Union of India through General Manager, Northern Railway Headquarter Office, Baroda House, New Delhi.
2. Chief Project Administrator IRcot, Shivaji Bridge, New Delhi.
3. Senior Signaling & Telecommunication Engineer (IRKOT) Moradabad Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R (ORAL)

Shri R.K.Ahooja, Member(A) :

The applicants No.1 and 2 were initially engaged as casual labour/gangman in the Construction Organisation of the Northern Railway with effect from 20.3.1978 and 6.9.1979 respectively. Applicant No.1 was promoted on ad hoc basis as Sarang with effect from 30.3.1986 while applicant No.2 was promoted on ad hoc basis as Rigor Khalasi with effect from 31.1.1985.

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They were also granted regular pay scale of the post of Sarang and Rigor Khalasi. The applicants were later screened for regular appointment, Group 'D' category under the Delhi Division and on being declared suitable for absorption as gangman were so appointed by letter dated 12.9.1997 (copy at Annexure R-2). The names of applicants in the aforesaid letter appear at sl.nos.44 and 525 of the screening list. The grievance of the applicants is that by the impugned order dated 5.10.1999, they are being repatriated from IRKOT Moradabad to the post of gangman at Rampur under Delhi Division. In other words, they are aggrieved that from a group 'C' post they are now being reverted back to a group 'D' post.

2. We have heard the counsel. Shri K.K.Patel, learned counsel for the applicants has relied on Ram Kumar & ors. v. Union of India & ors., 1996 (1) SLJ 116 (SC). In that order, the Supreme Court relied upon the Board's instructions issued on 20.1.1985 and called upon the Railways to consider the 12 appellants before it for regularisation since they had already worked for more than 5 years in a group 'C' post. The learned counsel also relied upon the orders of this Tribunal in Smt. Daljit Kaur v. Union of India, OA No.347/96 decided on 18.12.1996, in which case the applicant who had been appointed on ad hoc basis as a Telephone Assistant from the year 1989 was aggrieved that she was being absorbed against a group 'D' post. The Tribunal in that case held that the action of the respondents in absorbing the applicant only on a group

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'D' post was not justified and the Tribunal directed the respondents to consider the case of the applicant for a group 'C' post if such a vacancy was available within the 25% quota for regularisation of such group 'C' employees. Shri Patel submitted that since the applicants in the present case have also worked uninterruptedly against group 'C' posts for more than 15 years, they were also entitled to be regularised against a group 'C' post in terms of the Railway Board's instructions. We, however, find that the facts and circumstances of the present case are distinguishable from the aforesaid cases cited by the learned counsel. In the case of Ram Kumar (supra) the directions of the Supreme Court were that regularisation on the basis of the court's orders had to be only in group 'D' posts but in that case the respondents had made a concession that they would allow the pay of the group 'C' post even though the appellants were working against group 'D' posts till such time that they could find a place in the group 'C' category. Here, there is no concession on the part of the respondents.

3. In the case of Daljit Kaur (supra) the applicant therein had initially itself been appointed as a casual worker in group 'C' category unlike the applicants before us who were initially engaged as group 'D' casual workers. The Tribunal has also held in the case of Ram Naresh v. Union of India & ors. in O.A. No.19/94 along with a batch of similar other cases decided on 3.4.1997 that in view of the Supreme

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Court's judgment in *Union of India v. Moti Lal & Ors.*, 1996 (33) ATC 304 that group 'C' post being a promotional post, persons appointed directly contrary to the rules cannot by reason of long continuous officiation on the post claim regularisation against that post. On that basis, the claim of the applicants therein for regularisation against a group 'C' post was rejected.

4. We find in the present case that even though the applicants have been working in a group 'C' post they have been screened for regularisation against a group 'D' post. The applicants did not impugne the action of the respondents in screening them against a group 'D' post and later notifying their absorption in that category. Having accepted the action of the respondents in screening and absorbing them against a group 'D' post, they cannot now impugne the action of the respondents, moreover when work is not available to continue them in group 'C' post.

5. Shri Patel has also cited before us the case of *V. M. Chandra v. Union of India*, (1999) 4 SCC 62 to support his contention that after rendering service of more than 15 years as skilled artisans in group 'C' the applicants cannot be reverted back to a group 'D' post. We find that the facts in that case were different inasmuch as the appellants in that case had been appointed as Technical Mates and the Railway Board had issued approval for considering the casual labour Technical Mates in the geographical

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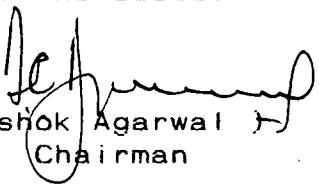
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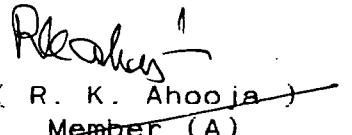
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jurisdiction of the concerned Division for absorption as skilled artisans grade III. It is not the claim of the applicants before us that they belong to the category of Technical Mates and are, therefore, covered by the aforesaid instructions of the Railway Board.

6. We find that the applicants have been reverted to their substantive post as group 'D' gangman because the project in which they were working has since been completed and, therefore, the positions against which they were working earlier in group 'C' are no longer available. In these circumstances, if the applicants were to be granted relief and were to be retained or regularised in group 'C' category then they would be stealing a march over those who might be senior to them in their substantive positions in group 'D' category. Thus, the applicants have to await their turn under the promotion quota for being promoted to the group 'C' category. In the circumstances, the relief sought for by the applicants that they should be regularised in a group 'C' post cannot be granted.

7. In the facts and circumstances of the case, the O.A. is found to be devoid of merit and it is accordingly dismissed. No costs.


(Ashok Agarwal)
Chairman


(R. K. Ahooja)
Member (A)

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