

Central Administrative Tribunal, Principal Bench

Original Application No. 761 of 1998

M.A. 743 of 1998

(7)

New Delhi, this the 12th day of September, 2000

Hon'ble Mr. Kuldip Singh, Member (J)

Hon'ble Mrs. Shanta Shastri, Member (A)

1. Atul Mohan S/o Shri Vishnu Dutt Sharma
Helper Khallasi ACC
under SSE/E ACC
Northern Railway, Delhi Jn.
R/o A-13, Type-IV, Laxmi Bai Nagar,
New Delhi.
2. Rattan Paul Singh
S/o Shri Karan Singh
Helper Khallasi ACC
under SSE/E ACC
Northern Railway, Delhi Jn.
R/o Near the Rad Mandir
Harsh Vihar, Delhi.
3. Patti Ram
S/o Shri Raghuvar Dutt
A.C. Khallasi
under SSE/E ACC
Northern Railway, Delhi Jn.
R/o 110-C/A Railway Quarter,
Madarasa Road, Kashmere Gate,
Delhi.
4. Om Prakash
S/o Shri Sita Ram
A.C. Khallasi
under SSE/E ACC
Northern Railway, Delhi Jn.
R/o H.N. 500/2-E Gali No. 7
Kunti Marg, Vishwas Nagar,
Shahdara, Delhi-32.
5. Hari Shankar S/o Shri Dularey
Khallasi
under SSE/E ACC
Northern Railway, Delhi Jn.
R/o Jhuggi No. UE/21-40,
Near Rly. Quarter Mandavali,
Fazalpur, Delhi-110 029.
6. Ramesh Chander S/o Sri Sri Ram
Khallasi
under SSE/E ACC
Northern Railway, Delhi Jn. - Applicants

(By Advocate - Shri G.D. Bhandari)

Versus

1. Union of India through the General Manager,
Northern Railway, HQ Baroda House,
New Delhi. *km*

2. Divisional Railway Manager,
Northern Railway, New Delhi.
3. Karamvir Singh S/o Shri Sova
4. Ishwar Singh
5. Om Prakash S/o Sh. Fakir Chand
6. Jai Bhagwan S/o Sh. Ram Kumar - Respondents
(By Advocate - Shri O.P. Kshatriya)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

In this OA the applicants seek a direction as all of them are aggrieved of the fact that respondent No.2 had placed 22 persons on the panel for the post of Skilled Artisans/Fitter Grade in the scale of Rs.550-900 (Revised Pay Scale) in AC department. They allege that the selection of Khalasis to the feeder grade made by the respondents is illegal as certain junior persons junior to the applicants and that too, who belonged to other departments whose names even do not appear in the respective seniority list of Khalasis and Helper Khalasis, have been placed on the panel by ignoring the applicants.

2. Applicants claim that they were initially appointed as casual labour. Later on they were given regular pay scale with temporary status and were subsequently absorbed permanently as ACC Khalasi after passing the screening test held by the respondents and then they became Helper Khalasi in the grade of Rs.800-1150. *h*

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3. Vide Circular dated 14.8.97, Annexure A-2, the respondents notified to fill up vacancies of Skilled Artisans/Fitter in the ACC department in the grade of Rs.950-1500 and a list of 86 eligible candidates was published along with the Notification, (Annexure A-2) to appear in the written test to be held on 6.9.97. The eligibility condition was that one must have completed 3 years of regular service after screening. In pursuance to the same, the applicants appeared and were declared qualified and were asked to take viva-voce test along with other candidates who were 35 in number. Thereafter respondents published a select list of 22 persons for the post of AC Fitter Grade III in the scale of Rs.950-1500 but the applicants names have been omitted and persons who were junior in the Khalasi and Helper Khalasi grade had been appointed.

4. The applicants are particularly aggrieved of inclusion of name of respondent Nos. 3 to 6 in the panel of selection as it is stated that all the 4 respondents were working in the Electric Power Construction and they have their lien in the TRD Branch of Railway Electrification and they were absorbed as Khalasi in the TRD Branch from Electric Power Construction Branch.

5. The applicants further pleaded that when the respondent Nos. 3 to 6 were inducted in the TRD Branch, they had affected the seniority of the staff already working there in the cadre of Khalasis, being unwelcome in TRD branch and the respondents changed their decision and after sometime inducted those

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people as ACC Khalasi in the cadre of applicants.

Though the applicants have nothing to object against their induction but they have a grievance against being granted seniority to respondents Nos. 3 to 6, as such these 4 respondents are junior to the applicants and cannot be assigned seniority over the applicants in the cadre of AC Khalasis.

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6. It is further pleaded that respondents have manipulated their seniority and despite the fact that they had not been promoted as Helper Khalasis and they have been shown senior to the applicants, so it is prayed that the selection of respondent Nos. 3 to 6 as ACC Fitter is illegal and the same is liable to be quashed.

7. Respondents in their reply pleaded that the selection had been made strictly in accordance with the prescribed procedure and instructions as per Para 219 of the Indian Railway Establishment Manual. Though the applicants had qualified the written test but could not be placed on the panel on the basis of over all performance on merits of viva-voce etc.

8. It is further stated that the selection was held for filling up 25% Intermediate Quota wherein all the staff of Air-Condition department in the category of Khalasi and Helper Khalasi who fulfil the prescribed conditions of minimum service and educational qualification, were eligible to apply for the selection, irrespective of the seniority. Only

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those staff who qualified the prescribed written Test followed by viva-voce were placed on the panel on the basis of their over all performance.

9. As regards the induction of respondent Nos. 3 to 6 in the Khalasi Cadre of AC is concerned, it is submitted that out of 4 respondents, i.e., Nos. 3 to 6, respondent No.6 was already working in AC Wing while the remaining three were working in Construction Organisation who were subsequently screened for absorption in the Electric General Wing (i.e. Air Condition, Train Lighting and Power Supply) but since there were no vacancies in the General Wing at the time of the absorption in the General Wing, they were diverted to the TRD Wing of the other staff. On their further request for posting in General Wing through one of the recognised union, the issue was discussed in PNM Meeting, wherein it was decided to post them in the General Wing without loss of seniority. Accordingly, they were assigned seniority over the applicants in the cadre of Air Condition Khalasi.

10. We have heard the learned counsel for the parties and have gone through the records of the case.

11. The main grievance of the applicants are that the Nos.3 to 6 had been promoted as Helper Khalasi in a clandestine manner and their promotion as Helper Khalasi have been agreed to by the Union in the PNM Meeting and later on they have also been selected as AC Fitter in the scale of Rs.950-1500 while showing senior to the applicants. They have also submitted

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that respondent Nos. 3 to 6 originally belong to TRD and they could not be given seniority but they have been brought in the ACC cadre and have been given seniority over the applicants, which is against the Railway Rules but respondents have clearly stated in their reply that the respondents Nos. 3 to 6 were screened as Khalasi while working in the Construction Organisation. They were absorbed on the Electric General Wing (in the Air Condition, Train Lighting and Power Supply) since there were no vacancy in the General Wing at the time of absorption, so they were diverted to the TRD Wing and when they were brought back to the General Wing after discussing the issue in the PNM Meeting, they were assigned seniority over the applicants in the cadre of Air Condition Khalasi.

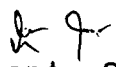
12. We find that the applicant had not been able to show that when the respondent Nos. 3 to 6 were originally absorbed on General Wing they were not senior to them. No document has been shown to us that the respondent Nos. 3 to 6 at the time of their initial absorption in the General Wing were junior to the applicants. Merely for lack of vacancies respondent Nos. 3 to 6 were put to work in TRD Wing will not make them junior. Their seniority is to be counted from the period when they were screened and allocated to General Wing. Moreover same has also been agreed upon in PNM meeting and applicants had not challenged their seniority at that time. Now the applicants cannot raise the same at this belated stage, for inclusion of their names in the eligible candidates list. Since the selection depends upon the

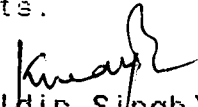
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marks obtained by a candidate in the written test, viva-voce as well as overall performance, so the respondent Nos. 3 to 6 have been selected on their own merits. The applicants cannot assail the same.

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13. In view of the above, OA has no merits and the same is accordingly dismissed. No costs.


(Mrs. Shanta Shastri)
Member(A)


(Kuldip Singh)
Member(J)

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