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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2390/96

New Delhi this the 16th Day of November 1998

Hon'ble Mr. R.K. Aahooja, Member (A)

1. Shri Hari Gopal,
S/o Shri Parsh Ram,
Welder
2. Shri Rameshwar Dayal,
S/o Shri Pathey,
Aligner
3. Shri Suraj,
S/o Shri Maha Deo Parasad,
Welder
4. Shri Nane Lal,
Shri Gokal,
Lutor
5. Shri Mahendra Kumar
Shri Gaj Raj Singh,
Grinder
6. Shri Har Prasad,
S/o Shri Mahdeo,
Mounder
7. Shri Shiv Dutrt,
S/o Shri Shram Dutta,
Blacksmith
8. Shri Ram Kumar,
S/o Shri Vishambhar
Fitter
9. Shri Suresh Dutta,
S/o Shri Baldeo Dutta,
Blacksmith
10. Mohd. Hasan,
S/o Shri Abdul Wahib
Mason.

Applicants

(By Advocate: Shri B.S. Mainee)

-Versus-

Union of India,
Through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Rly. Manager,
Northern Railway,
Moradabad (UP).

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3. The Assistant Engineer,
Northern Railway,
Najibabad (UP).

Respondents

(By Advocate: Shri R.L. Dhawan)

ORDER

The applicants, ten in number, are working as skilled artisans in the pre-revised grade of Rs. 950-1500 as Welder, Aligner, Lutor, Moulder, Grinder etc. etc., under the respondents. They claim that they have passed the trade test and have now been working as skilled artisans for the last 12 to 16 years continuously. Their grievance is that though they are entitled to be considered for absorption in Group 'C' posts in accordance with Para 2007(3) of the Indian Railways Establishment Manual (IREM), the respondents by the impugned order, Annexure A-3, have screened and approved them for Grade IV /grade 'D' vacancies for Gangmen, Khalasis.

2. The respondents in reply submit that the applicants were initially recruited as Gangmen/Khalasis and they were later put to work as casual artisan from various dates indicated in Annexure R-1. They submit that as per Para 159(1) of IREM, Vol. I, 50% of the posts in Grade 'C' are to be filled by promotion of staff in the lower grade. In terms of Para 2007(3) (IREM), Vol. II, casual artisans whether recruited directly or promoted as such can straightway be absorbed in regular vacancies in skilled grade provided they have passed the requisite test, to the extent of 25% of the promotion vacancies. The respondents submit that as there are no permanent sanctioned posts of artisans, Group 'C' in the trades in which the applicants are working, their claim for absorption in regular Group 'C' employment cannot be

considered. In these circumstances, the respondents say that the applicants have been screened for the posts of Gangmen/Khalasis according to their own written consent.

2. I have heard the counsel on both sides. I find no dispute in the stand taken by either side that the applicants are eligible to be considered for absorption in Group 'C' against the quota of 25% of promotion posts as per Para 2007(3) of IREM, Vol. II. The point of dispute between the parties, however, is regarding the availability of such posts. According to Shri R.L. Dhawan, the learned counsel for the respondents, there are very few Group 'C' posts of artisans in the Division in which the applicants are working. He drew my attention to Annexure R-3, which gives details of such posts. The said Annexure shows that there are only 19 posts of Masons in the Division. As per Para 159(1) of IREM only 50% of these posts say 10, are to be filled through promotion. As per Para 2007(3) of IREM, Vol. II, the casual artisans can be adjusted only against 25% of the promotion posts i.e. 2.5. It cannot be concluded, therefore, that there is no scope for adjustment of the applicant Nos. 10 for absorption as Mason; it will depend upon when a vacancy is available under the appropriate quote. If the applicants wish to try their luck against the availability of such a post irrespective of when this happens their rights to do so cannot be taken away.

3. Shri B.S. Maine, learned counsel for the applicant, has cited a number of decisions of the Hon'ble Supreme Court and of this Tribunal in support of his contention that the applicants have the right to be considered for absorption in Group 'C' in accordance with

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the provisions of Para 2007(3), IREM, Vol. II. This as has already been concluded in the preceding paragraphs is well settled and need not detain us any further. The question, then, is as to whether any relief is possible for the applicants in the intervening period till they find a place in the quota. In OA No. 347/96 Smt. Daljit Kaur Vs. Union of India decided on 18.12.1996 (a copy of which has been placed on record), it was decided that if no vacancy in Group 'C' is available, the applicant therein shall be for the time being adjusted against a Group 'D' post with protection of pay till the vacancy in Group 'C' arises. In reaching this conclusion, the Tribunal had relied on the decision of the Supreme Court in Ram Kumar & Ors. Vs. Union of India SLLJ 1996(1) SC 116. Following the decision of the Division Bench in O.A. No. 347/96 (Supra), the present O.A. is also disposed of with the following direction:

1. The order of the respondents, Annexure A-3, in so far as it relates to the absorption of applicants in Group 'D' post, is set aside;
2. The respondents are directed to consider the absorption of the applicants in Group 'C' posts as and when vacancies are available within 25% of promotion quota in Group 'C' posts in the various trades in which ~~if~~ the applicants are working respectively as skilled artisans; and

3. Till such time vacancies arise in Group 'C' post against which the applicants can be considered, they may be adjusted against a Group 'D' post protecting their pay in Group 'C'.

There is no order as to costs.

R.K. Aahooja
(R.K. Aahooja)
Member (A)

Mittal