

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No. 1610 /1997

Date of Decision: 28 - 7 - 1998

Shri Lallu & Ors.

APPLICANT

(By Advocate Shri U.Srivastava)

versus

Union of India & Ors.

RESPONDENTS

(By Advocate Shri R.L. Dhawan)

CORAM:

THE HON'BLE SHRI T.N. BHAT, Member (J)

THE HON'BLE SHRI S.P. BISWAS, MEMBER(A)

1. TO BE REFERRED TO THE REPORTER OR NOT? YES

2. WHETHER IT NEEDS TO BE CIRCULATED TO OTHER
BENCHES OF THE TRIBUNAL?


(S.P. Biswas)
Member(A)

Cases referred:

1. State of Rajasthan V. Fateh Chand Seni 1996 SCC (L&S) 340
2. Raghunath Parsad Singh V. Secretary Home(Police) Dept.
Govt. of Bihar & Ors. AIR 1988 SC 1033
3. Dr. (Ms) O.Z. Hussain V. UOI & Ors. AIR 1990 SC 313
4. CS IR V. K.G.S. Bhatt, AIR 1989 SC 1972

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1610/97

New Delhi, this the 28th day of July, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

1. Lallu s/o Shri Kallu
2. Prem Singh s/o Sh. Vishun Singh
3. Sinchan Ram s/o Sh. Ram Naresh
4. Rama Kant Bharti s/o Brij Nandan Bharti
5. Laxman Dhari s/o Chhotey Lal
6. Mukti Nath s/o Sh. Badri Nath

All the applicants are working with the
respondents as Senior Khalasi at Baroda House
.....Applicants

By Advocate: Shri U. Srivastava

Versus

Union of India through

1. Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi.

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

3. Divisional Railway Manager,
Northern Railway,
Estate Entry Road,
New Delhi.

... Respondents

By Advocate: Shri R.L. Dhawan

O R D E R (ORAL)

Hon'ble Shri S.P. Biswas, Member (A)-

The applicants, six in number, are aggrieved
for having not obtained even one promotion during the
period of 20-25 years of services rendered by them under
the respondents Railways. They were engaged between

Q) 1966 to 1979 in the capacity of Khalasis and trolleymen in Group 'D' category and allege to be stagnating in the same position they joined services decades before.

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2. Respondents, on the contrary, would say that the applicants have been offered promotions, and the details thereof are available in the counter from page 2 onwards as well as at Annexure R-I. Respondents, however, admit that the promotion so offered are in terms of change of the grades only. The categories of the applicants have not been changed.

3. The basic question would boil down as to what would constitute "promotion". In the literal sense the word 'promotion' means to advance to a higher position, grade or honour as is evident from Webster's Comprehensive Dictionary International Edn. P. 1009. The Hon'ble Apex Court decided the question of definition of promotion in the case of State of Rajasthan vs. Fateh Chand Soni, reported in 1996 SCC (L&S) 340. It has been held therein that in the service jurisprudence the expression 'promotion' has been understood in the wider sense and it would mean either a favourable change over to a higher scale of pay or to a higher post. The Apex Court also held that provision of a selection grade i.e. change of a higher grade in the same category is not a new thing. The grievance of the applicants have to be seen in the context of this factual position. The fact remains that the applicants have not enjoyed any better career prospects in terms of change of the category from group 'D' to group 'C'. The claims of the applicants assume importance in the light of promotional opportunities the respondents are

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planning as is evident from Annexure A-I and a communication dated 3.12.1997 annexed to the rejoinder.

This communication enjoins upon the field legal executive authorities to create enough posts in the higher categories to take care of the stagnations in group 'D' in order to provide timely promotional opportunities to the sufferers like the applicants herein. The need for providing adequate promotional avenues for those in the lower categories with lesser of opening for future is not disputed by either of the parties.

4. Adequate promotional avenues to keep the service contended is an accepted norm in areas of servicee jurisprudence and this has been recognised by the Apex Court in the case of Raghunath Parsad Singh vs. Secretary Home (Police) Department, Government of Bihar & Ors. AIR 1988 SC 1033, Dr. (Ms) O.Z. Hussain vs. UOI & Ors., reported in AIR 1990 SC 313 and C.S.I.R. vs. K.G. S. Bhatt, reported in AIR 1989 SC 1972. In all these cases the need for providing atleast one promotion has been highlighted by the Apex Court time and again.

5. We find that the respondents are also initiating actions in these directions as is evident from the letter (A-I) of General Manager, Northern Railway addressed to all D.R.Ms. We also find that respondents Railways are even on the job of identifying group 'D' categories where staff do not get promotion at all to Group 'C' or Group 'D' posts in the stagnation category which could be considered for upgradation to group "C".

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6. In the light of the above, the O.A. is allowed with the following directions:

(A)

a) The respondent no. 2 shall take fresh initiatives to create the posts in group 'C' or promotional categories on the basis as at A-I or communication issued by the General Manager dated 3.12.1997. This exercise shall be completed within a period of six months from today keeping all those concerned informed particularly the applicants herein. We hope the respondents like the Railways shall adhere to the standards by which they profess.

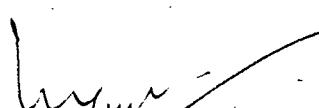
b) We may make it clear that the applicants shall be considered for promotion from one category to another subject to rules/regulations on the subject since change of category from Group 'D' to Group 'C' would require resorting to reduction process.

(c) The applicants will have the liberty to agitate the issue afresh in case their grievance continue unresolved in future.

(d) There shall be no order as to costs.


 (S.P. Biswas)
 Member (A)

na


 (T.N. Bhat)
 Member (J)

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9/2/99

(5)

MA-300/99 in

CA - 1610197

Present: Sh. U. Srivastava, counsel for petitioner.

Heard.

By MA 300/99, the applicants in the
CA seek a direction to the respondents
to implement the Judgment/Order dt 28/7/98

We direct issuance of notice
on MA-300/99, returnable on 17-3-99
to be listed before appropriate Bench.

by Mr.

(T. R. BHAT)
M.C.J.

B
(S. BISWAS)
M.C.J.

Notice on MA 300/99
issued 11-2-99, service
complete,
R.A.C. & M.A. not filed
from MA 509/99 listed