

Central Administrative Tribunal  
Principal Bench

O.A. No. 762 of 1997

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New Delhi, dated this the 2<sup>nd</sup> JULY, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Smt. Jeevan Jyoti,  
W/o Shri K.C. Sharma,  
Storeman,  
under Dy. Chief Engineer (Const.),  
Northern Railway,  
Ambala, Haryana.

... Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager,  
Northern Railway,  
Baroda House, New Delhi.
2. The Chief Administrative Officer (Const.),  
Northern Railway,  
KJashmere Gate, Delhi.
3. The Sr. Civil Engineer (Const.),  
Northern Railway,  
Ambala Cantt.
4. The Divl. Railway Manager,  
Northern Railway,  
Ambala Division,  
Ambala.

... Respondents

(By Advocate: Shri P.M. Ahlawat)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 8.12.99 (Annexure A-1) announcing the result of the screening test whereby applicant has been declared fit for regularisation as khallasi. Applicant seeks a direction to respondents to regularise her as storeman.

2. Heard both sides.

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3. Admittedly applicant was initially engaged as a casual labourer in Construction Division w.e.f. 19.5.82. She was granted temporary status as khallasi in Construction Division w.e.f. 1.1.84 vide letter dated November, 1986 (Annexure A-3). She was appointed as storeman (Rs.800-1150) in Construction Division w.e.f. 18.2.84 on purely temporary/ad hoc basis. Meanwhile pursuant to the Tribunal's order dated 27.10.93 in T.A. No. 23/91 Shri Charan Singh & Others Vs. Union of India & Others and connected case (wherein it was noticed that those petitioners were engaged in Construction Organisation, whose Headquarter was at Ambala and they were, therefore, being considered for absorption against vacancies in Ambala Division) applicant has been regularised in open line as khallasi in Engineering Dept. of Ambala Division vide letter dated 8.12.94 (Annexure A-1).

4. Applicant contends that her regularisation as khallasi vide impugned letter dated 8.12.94 was illegal and arbitrary, and she should have been regularised as storeman instead. Reliance is placed on CAT, Allahabad Bench's order in O.A. No. 555/89 Shri Vijay Prakash Vs. Union of India which has been upheld by the Hon'ble Supreme Court on 25.10.96 (copies taken on record), and on the basis of which respondents have issued letter dated 18/21.1.2000 (copy taken on record).

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5. Following the aforesaid judgments the J&K High Court in its order dated 28.7.2000 in SWP No. 212/2000 Shankar & Others Vs. Union of India & Others and connected cases has allowed the same and has held those petitioners to be entitled to the relief of regularisation as storemen subject to the condition of screening and then fitness.

6. Respondents contend that applicant who has been regularised as works khallasi is eligible for promotion in her own channel as helper khallasi as per relevant Recruitment Rules and from helper khallasi to artisan categories like Mason, carpenter, blacksmith etc. (50% vacancies by promotion on the basis of seniority-cum-suitability i.e. Trade Test, 25% by direct recruitment through open market and 25% through departmental promotion from willing helper khallasis of the same seniority list). It is stated that there is no provision for regularisation in the intermediate grade of storeman and promotion as storeman cannot be given in the absence of a channel for promotion as per settled law. It is further stated that applicant was never engaged in skilled category directly, and therefore, Para 2007 (3) IREM Vol. II relied upon by her does not help applicant. Reliance is also placed by respondents on the CAT, Full Bench ruling in Ram Lubhaya & Others Union of India & Others reported in 2000 (1) ATJ (FB) 40.

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7. We have considered the matter carefully.

8. In our view the J & K High Court order dated 28.7.2000 (supra) which itself follows the Hon'ble Supreme Court's order in Vijay Prakash's case (supra) is binding absolutely upon us.

9. Accordingly this O.A. is disposed of with a direction to respondents to consider applicant's claim for regularisation as storeman in Construction Division or in open line of Engineering Dept., Ambala subject to the availability of a regular vacancy of storeman, strictly in her turn, and in accordance with rules, instructions and judicial pronouncements on the subject as expeditiously as possible and preferably within four months from the date of receipt of a copy of this order. No costs.

*A. Ve. davarani*

(Dr. A. Vedavalli)  
Member (J)

*S.R. Adige*

(S.R. Adige)  
Vice Chairman (A)

karthik