

Central Administrative Tribunal, Principal Bench

Original Application No.83 of 1997

New Delhi, this the ^{27/11} day of April, 2000

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Mr.V.K.Majotra, Member (A)

Fiaz Husain, s/o Shri Mustaq Husain, Fitter
under Inspector of Works/ N.Rly. Chandausi,
Residential Address- Fiaz Husain, c/o IOW/
N.Rly.Colony, Chandausi.

- Applicant

(By Advocate Shri G.D.Bhandari)

Versus

1. Union of India through the General
Manager, Northern Railway Baroda House,
New Delhi.
2. Divisional Railway Manager, Northern
Railway, Moradabad.
3. The Asstt. Engineer (G), DRM's office,
N.Rly. Moradabad.
4. The Asstt. Engineer/ DEN, Northern
Railway, Chandausi.

- Respondents

(By Advocate Shri R.L.Dhawan)

O R D E R

By Mr.V.K.Majotra, Member(Admnv) -

The applicant has challenged order dated 20.12.1996 (Annexure-A-1) issued by Assistant Engineer (G), Moradabad, respondent no.3 whereby the applicant's category has been changed from Fitter to Gangman allegedly in an arbitrary and malafide manner without any notice.

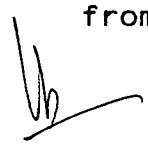
2. The applicant was engaged as a casual labourer in 1977 under the Inspector of Works, Chandausi, Civil Engineering Department in Moradabad Division of Northern Railway. After rendering 120 days of casual service he was granted temporary status. Ever since he was given regular pay scale of the post of Khalasi in grade Rs.750-940. With effect from 15.2.1985 he was appointed as a temporary Fitter. The applicant underwent

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screening by a screening committee for regularisation on 15/25.1.1996. As a result, the respondents placed the applicant among other (459) casual labourer in the provisional panel dated 20.3.1996 (Annexure-A-2). Vide Annexure-A-1 dated December 20, 1996 the applicant was declared fit for regularisation as Gangman after screening. The applicant has averred that since he has been working as Fitter in the grade of Rs.950-1500 and by earning increments has reached the level of Rs.1225/-, his regularisation against the post of Gangman in the scale of Rs.775-1025 amounts to reversion and is in violation of the principles of natural justice.

3. The applicant has sought setting aside and quashing of respondents' order dated 20.12.1996 (Annexure-A-1) down grading his category from the Fitter Grade to the post of Gangman and a direction to the respondents not to revert or change the applicant's category and allow him to continue as Fitter Grade in Rs.950-1500 since his casual appointment in 1977 and particularly from 15.2.1985 when he was appointed as a temporary Fitter.

4. The respondents have stated that the applicant has been working as casual artisan and in terms of Para 2007(3) of the Indian Railway Establishment Manual ('IREM' for short) he is eligible for absorption in regular vacancies in skilled grades to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. The



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respondents have also relied upon the terms of Para 2006 of the IREM whereunder casual labourers are eligible for absorption in Group 'D' employment against available vacancies.

5. The learned counsel of the parties were heard and the record available before us perused.

6. The learned counsel for the applicant contended that the applicant has been working in Fitter Grade, which is a Group 'C' post since 15.2.1985 and the act of the respondents in regularising him on the basis of the screening test held in December, 1996 as a Gangman in Group 'D' is illegal and he should be regularised as a Fitter in Group 'C' against 25% promotion quota. He has relied upon following decisions of this Tribunal - (i) Sh.Chhajjoo Vs. Union of India & others, OA No.313/96 decided on 2.2.2000 and (ii) Hari Singh & others (OA 1791/96) and Laxmi Kant Saxena & others (OA 1792/96) Vs. Union of India and others decided by a common order on 1.3.2000. In these cases the absorption of the applicants in Group 'D' posts was set aside and the respondents were directed to consider the absorption of the applicants against vacancies in Group 'C' on being found suitable within a stipulated period.

7. On the other hand the respondents have relied upon order dated 16.9.1999 passed by this Tribunal in OA 366/95 (Sh. Gurdial Singh & another Vs. Union of India and others) whereby the applicants were not granted any relief on the basis that no junior to the applicants were promoted to Group 'C' post.

8. It is an admitted fact that the applicant was

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appointed initially as a casual worker in Group 'D' in 1977 but the respondents appointed him as a temporary Fitter in Group 'C' post, with effect from 15.2.1985. As per Annexure-A-5 the applicant was given fitness for appointment as temporary Fitter with effect from 5.11.1986. On obtaining applicant's option for screening in Group 'D' he was screened on 15/25.1.1996. He was placed in the panel at serial no.212 as fit for Gangman/Khalasi. The question is whether on the basis of these facts he can be regularised in the post of Fitter Group 'C'. The facts of the present case are similar to those of Sh.Gurdial Singh (supra). The applicant like the applicants of that case was appointed initially as casual worker in Group 'D'. He was appointed as Fitter in Group 'C' with effect from 15.2.1985. Para 2007(3) of the IREM reads as follows-

"Casual labour engaged in work charged establishment of certain Departments who get promoted to semi-skilled, skilled and highly skilled categories due to non-availability of regular departmental candidates and continue to work as casual employees for a long period, can straightaway be absorbed in regular vacancies in skilled grades provided they have passed the requisite trade test, to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. These orders also apply to the casual labour who are recruited directly in the skilled categories in work charged establishments after qualifying in the trade test."

Para 3 of the Railway Board Circular dated 9.4.97 under the heading of "Regularisation of casual labour working in Class 'C' scales, reads as under:-

"3. The question of regularisation of the casual labour working in Group 'C' scales



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has been under considerations of the Board. After careful consideration of the matter, Board have decided that the regularisation of casual labour working in Group 'C' scales may be done on the following lines:-

- i) All casual labour/substitutes in Group 'C' scales whether they are Diploma Holders or have other qualifications, may be given a chance to appear in examination conducted by RRB or the Railways for post as per their suitability and qualification without any age bar.
- ii) Notwithstanding (i) above, such of the casual labour in Group 'C' scales as are presently entitled for absorption as skilled artisans against 25% of the promotion quota may continue to be considered for absorption as such.
- iii) Notwithstanding (i) and (ii) above, all casual labour may continue to be considered for absorption in Group 'D' on the basis of the number of days put in as casual labour in respective Units."

It is seen from the above provisions that the Railway administration have considered the question of casual labourers working in Group 'C' scales in terms of the rules.

9. As the applicant had started his career in Group 'D' under the rules, he could have been considered for regularisation against 25% promotion quota in case vacancies are available. The respondents have denied existence of vacancies in Group 'C' against 25% promotion quota. Simultaneously, the applicant had given his consent for screening for Group 'D' held in 1996.

10. In the circumstances, in view of the fact that the ratio of Sh. Chhajjoo (supra), Sh. Hari Singh (supra) and Laxmi Kant Saxena (supra) are not applicable to the facts of the instant case and as no juniors to the applicants have been promoted in Group 'C' post, no



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relief can be granted to the applicant. The ratio of Sh.Gurdial Singh (supra) is squarely applicable to the facts of the present case. Accordingly, the OA fails and is dismissed. No costs.

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V.K. Majotra
(V.K. Majotra) 27.4.2000
Member (A)

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

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