

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(8)

O.A. No. 2323/2000

199

T.A. No.

DATE OF DECISION 2-7-2001

Shri Babu Lal and Ors.

....Petitioner

Shri Ravinder Raj

....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

Shri R.P. Aggarwal

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

The Hon'ble Shri Govindan S. Tampi, 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? No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Central Administrative Tribunal
Principal Bench

OA 2323/2000

New Delhi this the 2nd day of July, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri Govindan S. Tampi, Member (A).

1. Shri Babu Lal
S/O Shri Sham Lal
Motor Driver, under
S.S.E (T)/ S.W.-II,
Signal & Telecom. Department,
Northern Railway, Luthian
Bridge, Delhi-110006

2. Shri Munna Lal,
S/O Shri Punna Lal,
Motor Driver, Under
S.S.E. (T)/ S.W.-II,
Signal & Telecom. Department,
Northern Railway, Lothian
Bridge, Delhi-110006.

... Applicants

(By Advocate Shri Ravinder Raj)

VERSUS

1. Union of India, through
The General Manager,
Northern Railway,
Baroda House, New Delhi.

2. The Dy.C.S.T.E./S.W
Northern Railway,
Signal and Telecom Department,
2nd Floor, New Exchange Bldg.

... Respondents

(By Advocate Shri R.P. Aggarwal)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

The applicants are aggrieved by the orders issued by the respondents dated 25.5.1998 and 4.2.2000, according to which they have submitted that they have been reverted/reduced in rank from a higher post, that is, from the grade of Driver which is a Group "C" post to the lower post of Khalasi which is in Group "D"/Class IV service.

13/

(2)

2. The brief relevant facts of the case are that the applicants were engaged by the respondents as casual Motor Drivers w.e.f. 2.2.1973 and 20.11.1979, respectively. According to the respondents, they had worked intermittently during this period and were re-engaged on 8.4.1981 and 4.9.1980, respectively. They had been granted temporary status w.e.f. 1.1.1982 and 1.1.1984, respectively and had continued to work as Motor Drivers on casual basis.

3. Shri Ravinder Raj, learned counsel has submitted that both the applicants have been working as Motor Drivers which is a Group 'C' post for the last more than 20 years. His contention is that in the facts and circumstances of the case, the applicants cannot be reverted to a lower post. Hence, they have impugned the order dated 25.5.1998 issued by the respondents, in which they have fixed their lien which is referred to as "paper lien" of Group 'C' Staff in Group 'D' category, in the Delhi Division as Signal Khalasis and they were regularised w.e.f. 30.9.1997. Thereafter, the respondents have issued another order dated 4.2.2000 on the same subject, in which it has been stated that six persons, including the two applicants who have been screened by CAO/Const, K.Gate, Delhi, and paper lien fixed in Delhi Division as Signal Khalasis, are to be treated as regular Group 'D' in terms of their earlier letter dated 20.4.2000, with necessary entries being made in their service record for recovery on account of GIS. In the impugned order dated 25.5.1998, it has also been stated that the applicants along with the other persons dealt with in that order were allowed to work in Group 'C' and draw the same pay in terms of PS 10559 so long as they are working in the Construction Organisation.

(11)

4. Learned counsel for the applicants has submitted that the above impugned orders have reverted the applicants by reducing their status from a higher post to a lower post, that is from Group 'C' to Group 'D'. These contentions have been controverted by the respondents who have submitted that they have been working as Motor Drivers on casual basis on work-charged posts. Hence, they were screened and their paper lien fixed in Delhi Division as per directive of the Railway Board and necessary orders were issued on 25.5.1998. Shri R.P. Aggarwal, learned counsel has submitted that the applicants have now been regularised as Signal Khalasis and the question of their promotion will be taken up after they have been regularised, in accordance with the relevant Rules and instructions. In the reply, the respondents have also stated that the office letter dated 25.5.1998 has been implemented and necessary entries made in their service books. They have also submitted that the question of reverting the applicants to a lower grade does not arise as they are still working in the Construction Division with temporary status. This position was reiterated by Shri R.P. Aggarwal, learned counsel, during the hearing. Learned counsel for the applicants has submitted written submissions which are placed on record.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties, including the various judgements relied upon by Shri Ravinder Raj, learned counsel.

6. From the facts mentioned above, it is no doubt correct that the applicants have been working as Motor Drivers for a number of years, which is admittedly a Group 'C' post. However, it is relevant to note that as per the procedure laid

97

down by the respondents, as they were only working in that capacity on casual basis, they have been granted temporary status and regularised in Group 'D' posts. This has been done after screening and regularising them on paper by giving them lien in the Delhi Division, although they are working in the Construction Division. We further note the assurance given by the respondents that there is no question of reverting the applicants from the Group 'C' posts and the pay due on those posts so long as they are working in the Construction Organisation as casual Motor Drivers with temporary status. The applicants have nowhere successfully refuted the submissions made by the respondents that they have been originally employed as Motor Drivers only on casual basis and as per the relevant rules and instructions, they can be regularised only in Group 'D' posts. Thereafter, they can be considered for promotion to Group 'C' posts, in accordance with the relevant rules and instructions which has also been stated by the respondents in their reply. In the facts and circumstances of the case, the judgements relied upon by the applicants will not assist them.

7. In the facts and circumstances of the case, we find no illegality or arbitrariness in the impugned actions or orders issued by the respondents dated 25.5.1998 and 4.2.2000 to warrant any interference in the matter. Therefore, the claim of the applicants to quash the impugned orders is rejected. The O.A. fails and is dismissed. The respondents shall, however, consider the case of the applicants for promotion, subject to their fulfilment of the eligibility conditions in terms of the relevant rules and instructions. No order as to costs.

Govindan S. Tampi
Member (A)

"SRD"

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)