

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 522/2000

New Delhi, this the 8th day of February, 2001

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

Shri Hari Pal
S/o Shri Mata Din
Fitter, Office of the
Junior Engineer -I (Works)
Construction II
Northern Railway
Sarai Rohilla,
Delhi.

...Applicant.
(By Advocate Shri P.S.Mahendru)

V E R S U S

1. Union of India
through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Chief Administrative
Officer (Const.)
Northern Railway, Kashmere Gate
Delhi.
3. The Deputy Chief Engineer (Const.)
Northern Railway,
Tilak Bridge,
NEW DELHI.

...Respondents.

(By Advocate Shri R.P.Agarwal)

O R D E R (ORAL)

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

The applicant has filed this application stating that he is aggrieved by the action of the respondents compelling him to appear for screening for Class IV post of Khallasi. He submits that as he was initially appointed as a Fitter on 8-3-1985, which is a class III, post and has been continuously working in that post, this cannot be done.

2. The brief relevant facts of the case are that the applicant states that he joined the Railways as an apprentice and received apprenticeship training

under the Apprentices Act, 1961 at Northern Railway, Bikaner, in the trade of Fitter from 7-9-1976 to 30-5-1980. To this, the respondents have simply stated that this is a matter of record. The applicant further states that he joined the Construction Organisation of Northern Railway in the post of Fitter on 8-3-1985 and he is working in that post continuously. To this the respondents state that the applicant was engaged as project casual labourer (Fitter) in the Construction Organisation against a work charged post on the availability of work, without any trade test. According to them, the post of Fitter against which the applicant is working is not a skilled/semi-skilled post, but is a promotional post which cannot be filled on regular basis by regularising him, but is to be filled from eligible persons in the lower grade of Gangman/Sr.Gangman/Keyman/Khallas. (6)

3. The respondents, therefore, state that the applicant was first regularised in the lower grade of Khallas in group 'D' post and thereafter he could be considered for promotion on seniority-cum- suitability basis, where he is having lien as per the relevant rules and instructions.

4. The main contention of Shri P.S.Mahendru, learned counsel for the applicant is that the screening which the respondents have done in the case of the applicant is merely a paper screening and that too has been done behind the back of the applicant, who was not aware of the same. The respondents have stated that the applicant has been screened and regularised as Khallas by order dated 28-10-1997.

This OA has been filed on 4-4-2000. Learned counsel

V.C

for the applicant has contended that since the applicant has been working as a Fitter which is a group 'C' post right from 1985 without a break, so there is no question of regularisation of the applicant in a group 'D' post and his claim is that he should be regularised in a group 'C' post.

5. In view of what has been stated above, the prayer in paragraph 8 (i) that the respondents should be restrained from screening and regularising the applicant in class IV post cannot be granted as this has already been done more than two years back by the respondents vide their order dated 28-10-1997. It is also noted that this has been done as they have stated so that he comes in the regular channel of promotion from the lower grade of persons who are eligible for consideration for promotion, including the persons belonging to the grade of Khallasis. In this view of the matter the prayer in paragraph 8 (i) is rejected.

6. With regard to the main claim of the applicant for a direction to the respondents to regularise the applicant as a Fitter which post he is admittedly holding since 8-3-1985. Shri P.S.Mahendru, learned counsel has relied on the provisions of paragraph 159 of the IREM (Vol.I). He has submitted that the applicant fulfills the conditions laid down therein including the apprenticeship training under the Apprentices Act, 1961, and has been so appointed as Fitter in the Construction Organisation. We find that in paragraph 159 of the IREM (Vol.I) relied upon by the learned counsel for the applicant, that it further provides that the vacancies in the category of Skilled Artisans grade III in the scale of Rs.950-1500/- will be filled 25 % by selection from

course completed 'Act Apprentices' and those serving employees who have completed 'Act Apprentices' like the applicant, and other categories with which we are not concerned in the present application. Shri P.S.Mahendru, learned counsel has also relied upon a judgement of the P.V.Srinivasa Sastry Vs. C.A.G. & Ors. (AIR 93 SC 1321). He has, therefore, submitted that the applicant cannot be reverted to a lower post. However, we have been informed that the applicant is continuing in the post of Fitter in the pay scale of Rs. 950-1500/- and, therefore, the question of reversion does not arise here.

7. Shri R.P.Agarwal, learned counsel has submitted that the applicant has to come within the 25% quota as per his own seniority-cum-fitness provided in paragraph 2003 of IREM Vol.II Then his claim for regularisation in the class III post as Fitter could be considered in due course.

8. In view of the facts and circumstances of the case and noting the aforesaid provisions of the paragraphs relied upon by the learned counsel for the parties, the OA is disposed of with the following directions :-

The respondents shall consider the case of the applicant for regularisation/promotion along with other eligible persons, to the post of Fitter, as he has already been regularised as Khallasi in the lower grade, in accordance with the relevant rules and instructions subject to his fulfilment of the conditions laid down therein. No order as to costs.

Govindan S. Tampi
Member (A)
/vikas

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