

Central Administrative Tribunal
Principal Bench, New Delhi.

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Date of decision: 18.7.1989.

Regn. No. O.A. 1116/89.

Ms. Purnima Dutta Choudhry ... Applicant

Vs.

UOI & Ors. ... Respondents.

CORAM:

Hon'ble Mr. P.Srinivasan, Member (A)

Hon'ble Mr. T.S. Oberoi, Member (J).

For the applicant: Shri Anis Suhrawardy, counsel.

For the respondents: Shri Inderjit Sharma, counsel.

ORDER (oral)
(Delivered by Hon'ble Shri P.Srinivasan, Member).

This application has come up before us for admission today with notice to the respondents. The learned counsel for both the parties have been heard.

2. The applicant was appointed as a casual Khalasi in the Signal and Tele-communication Department of the Northern Railway at Delhi with effect from 4.11.1981. In due course, she was given temporary status with monthly salary and other facilities. It is common ground that being a literate Khalasi, she requested that she be allotted typing work and the authorities acceded to her request from the beginning. Her grievance is that though she has been allotted typing work from 1981, she has not been given appointment as a Typist with salary and allowances attached to that post.

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3. Shri Suhrawardy submits that the applicant having actually worked as a Typist for nearly eight years now, the respondents should have recognised this fact and appointed her as a Typist on a regular basis by promotion from the post of Khalasi. He drew our attention to the fact that six other persons who were appointed as Typists on ad-hoc basis by an order dated 26.8.1977 (page 27 of the application), have since been regularly appointed as Typists and contended that the applicant had been subjected to hostile discrimination. The applicant had, in fact, been appointed as a Typist for a short period from 27.12.1978 to 31.7.1979 but thereafter, her services were discontinued and she was later engaged on 4.11.1981 as a casual Khalasi. Her earlier service as a Typist from 27.12.1978 to 31.7.1979 should have been taken into account by the respondents and she should have been regularised as a Typist like these six persons.

4. Shri Inderjit Sharma opposes the contentions of Shri Suhrawardy. Regular appointment to posts of Typists are made only from two sources, i.e. by direct recruitment through the Railway Service Commission or by promotion from among class IV employees. The applicant did not appear in any selection made by the Railway Service Commission for the post of Typist and so she could not be appointed to that post by direct recruitment. She had not appeared for screening as Khalasi and, therefore, had not been regularised in a class IV post of Khalasi. For promotion, a person should have three years' regular service as a Khalasi which the applicant did not possess. Therefore, she could not be given the post of Typist in the promotion quota either. In view of this, Shri Sharma submitted that this application should be dismissed.

5. At this stage, Shri Suhrawardy submitted that there was no screening of Khalasis since the applicant's date of appointment. On one occasion, when it was announced that a screening would take place and the applicant went for the purpose, she was told that it was for the posts of Diesel Cleaner, Gangmen, Trolleymen and such other posts for which she was not eligible. In view of this, for no fault of hers, she had not been screened for regular appointment as a Khalasi and this should not stand in the way of her promotion as a Typist.

6. We have considered the contentions of both sides very carefully. It is not disputed that between 27.1.2.1978 to 31.7.1979, the applicant was appointed as a casual typist and that on 31.7.1979, her services were discontinued. On 4.11.1981, she was again taken in service but this time as a casual Khalasi. Obviously, she cannot find any right for regular appointment as a Typist on the basis of her earlier service in that capacity for a few months. The cases of the six other persons cited by Shri Suhrawardy are not comparable because they were actually appointed as Typists and continued in that capacity till they were regularised in their posts after being selected by the Railway Service Commission by way of direct recruitment. At the same time, it must also be noticed that the applicant has actually been doing typing work from 1981, whether at her own request or otherwise, which means that she was capable of taking on the duties of a Typist in the office of the Respondents. The applicant is worried that her status as a Khalasi is looked down upon by the members of her husband's family.

7. Taking into account all these factors, we are of the view that the ends of justice would be met if appropriate directions are issued to the respondents. We pass the following orders:-

- (i) The respondents will, as a special case, hold a screening test, within three months from today, for the applicant for regularising her in the post of Khalasi. Since she has been working as a Khalasi and has, at her request, been entrusted with typing work for over eight years now, there should be no difficulty in regularising her, screening being only a formality, though an essential one, which has to be gone through for the purpose.
- (ii) After regularising her as a Khalasi (which, according to our directions at (i) above, should be done within three months from today), the respondents will consider her case for promotion as a Typist relaxing the requirement that she should have put in three years regular service as a Khalasi. Here also, considering that the applicant has, in fact, been carrying out typing duties for over eight years satisfactorily, there should be no difficulty in giving her promotion. This should be done within a further period of three months from today.
- (iii) In all, our directions at (i) and (ii) above should be carried out within six months from today. Till then, the applicant will continue to work as a Khalasi with the pay and allowances of that post. We are sure, however, that as in the past, the respondents will respect her wishes and

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let her do typing work instead of being put on physical duties of a Khalasi.

8. The application is disposed of on the above terms leaving the parties to bear their own costs. A copy of this order should be handed over to the learned counsel for the respondents immediately after we sign the same.

Decd.
(T.S. Oberoi)
Member (J)

P.S. Srinivasan
(P.Srinivasan)
Member (A)

18.7.1989.