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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 2463/89

New Delhi this 3rd June, 1994.

CORAM:

Hon'ble Mr. S.R. Adige, Member(A)

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

1. Shri Subhash Malik,
s/o Shri P.D. Malik,
Lower Division Clerk;

2. Shri Ashok Dutta,
s/o Shri Jagjit Lal,

3. Shri Mangat Lal,
s/o Shri Amar Nath,

(All the above three working under the
Sr. Electrical Engineer(Construction) II,
Northern Railway, Shivajit Bridge,
New Delhi.)

.....Applicants.

By Advocate Shri B.S. Maine.

Versus

Union of India: through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Straight Entry Road,
New Delhi.

3. The Chief Administrative Officer(Construction)
Northern Railway,
Kashmiri Gate,
Delhi

.....Respondents.

None for the respondents.

ORDER

By Hon'ble Mr. S.R. Adige, Member(A)

In this application, Shri Subhash
Malik and two others, all Lower Division Clerks,
working under Senior Electrical Engineer(Construction)
II, Northern Railway, New Delhi, have prayed.

that the respondents be directed to regularise them as Clerks/Typists and assign their seniority from the date of their promotion as Clerks/Typists with all consequential benefits.

2 The applicants, who were appointed as Casual Labourers in the years 1971 and 1975, were regularised as Electri Khalasis in 1977 and 1978 and were further promoted as Work Assistants, Class III grade Rs.260-400/- vide letter dated 6.1.78 (Annexure-A6). Thereafter, they were promoted as Wireman w.e.f. 15.6.79 on adhoc basis. Soon after the applicants no.1 and 2 were posted as Clerks vide notice dated 12.3.81 (Annexure-A1) and applicant no.3 was posted as a Typist in the year 1981. The notice dated 12.3.81 clearly stated that the applicants no.1 and 2 were being posted as Clerks but this would not confer upon them any right for regular posting as Clerks without their passing the prescribed test. The applicants state that they were working to the full satisfaction of the ~~higher~~ officers but have not yet been regularised while those who were junior\$ to them and had been appointed as Clerks/Typists much after their promotion, have been promoted as Senior Clerks, but the applicants have been left where they were.

3. The respondents in their reply admit that the applicants have been working as Clerks/Typists on adhoc basis w.e.f. 12.3.81. They point out that the applicants have their lien on Class IV posts i.e. Electric - Khalasis in Delhi Division, but there is no provision in the rules for promotion

from the post of Electric Khalasi to that of Clerk and the applicants cannot be regularised unless they qualify the prescribed test for the post of Clerk/Typist.

4. We have heard Shri B.S. Maine, learned counsel for the applicants. None appeared for the respondents.

5. It is clear that the applicants, who hold their lien as Electric Khalasis, have been appointed as Clerks/Typist on purely adhoc basis and they cannot be regularised till they clear the prescribed test for the post of Clerk/Typist. Shri Maine stated that the applicants were willing to undergo the prescribed test. It is expected that the next such test will be held at a very early date and the respondents are directed to allow the applicants to appear in the same as and when it is held. If they are declared successful in the test, the respondents should consider the applicants' case for regularisation and upon their regularisation, assign their seniority strictly in accordance with the extant rules and instructions.

6. This application is disposed of in terms of the directions given in paragraph 5 above.

7. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

Adige
(S.R. ADIGE)
MEMBER (A)