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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 608 of 1989

This 9th day of March, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

1. Subhash Chander
2. Rajendra Kumar
3. Ramji Ram
4. Radhey Shyam
5. Bhagat Singh
6. Kusum Kumar
7. Lakh Ram
8. Tara Chand
9. Ram Nath
10. Jai Karan Yadav
11. Sees Ram

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Applicants

Address of all applicants:

Helper,
Shop Superintendent,
Train Lighting
Railway Station,
Delhi.

Through Advocate: Shri B.S. Mainoo

VERSUS

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

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

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Respondents

Through Advocate: Shri P.S. Mahendru

ORDER

(By Hon'ble Shri B.K. Singh, M(A))

The applicants were appointed as Khalasis in the year between 1978 and 1980 in the scale of pay of Rs.196-232. It has been alleged that they were asked to work as

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Greasers. It is also stated that the sanctioned strength of Greasers was 24 but there were only 12 Greasers actually appointed and against the 11 out of the rest 12, the applicants were asked to work as Greasers. It is further alleged that they are not given the pay-scale of Greasers i.e. 210-290/260-400.

2. The prayer made in the application is that the Hon'ble Tribunal should direct the respondents to pay the salary for the post of Greasers to the applicant from 1979 till December 1988, since they have performed the duties of the Greasers. It is further prayed that they should be allowed the difference of pay and allowances between the pay-scale of Khalasis and the Greasers from 1979 till 1988.

3. A notice was issued to the respondents who filed their reply and contested the application and grant of relief prayed for.

4. Heard the learned counsels, Shri B.S. Mainee for the applicants and Shri P.S. Mahendru for the respondents and perused the record of the case. The learned counsel for the applicants could not show any appointment letter appointing these applicants as Greasers nor could he produce any letters to show that they were asked to work as such. He, however, referred to some papers neither verified nor attested by the Railway authorities about these people having worked in respect of certain trains as Greasers. These are collectively placed at annexure A-2. Annexure A-1 filed by the applicants shows the sanctioned strength and vacancy position of the Greasers. At annexure A-3 various representations have been shown but there is neither any receipt nor acknowledgement indicating that



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received these were actually ~~fixed~~ by the respondents. The learned counsel for the respondents vehemently denied the averments made in the ~~claim~~ application that these Khalasis were utilised as Greasers. He said that the papers filed by the applicants are forged documents and these respondents have never been received by them. It was further stated that the applicants were appointed as Electrical Khalasis in the scale of Rs.190-232 in Electrical Department of Delhi Division of Northern Railway. He further vehemently denied that the services of the applicants were ever utilised as Greasers by the respondents as alleged by the learned counsel for the applicants. It was categorically stated that these people were utilised as Electrical Khalasis/ Helper SEFO (TL) Delhi and as such there is no question of paying them the grade of Rs.210-290/260-400 (RS). These were attached to Supervisors who were free to take any work from them in the exigencies of public service. He further stated that the sanctioned strength of the Greasers was only 19 under CEFO(TL)/Delhi and not 24 as stated by the learned counsel for the applicants. It was stated that vacancies were not filled by the Administration taking into consideration the work-load. It is functional requirement and the workload which guide the authorities in filling up the posts or not filling them. It was further argued that these Khalasis were deployed on MOG trains. They had never been booked as Greasers. It was further said that the applicants have never represented to the respondents on the subject of pay-scale of Greasers or on the subject of payment of arrears. Since the applicants were never utilised as Greasers the question of paying them salary of Greasers or difference of pay between Khalasis and Greasers does not arise. They have

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drawn the pay-scale of Khalasis without any protest and after such a long time they cannot be permitted to raise any grievance. The various representations filed collectively at annexure A-3 were described as forged and fabricated. None of the alleged representations have been received by the respondents and as such it was vehemently argued that these are forged.

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5. When oath/~~sworn~~ pitted against oath the balance of convenience is also in favour of the respondents who have the custody of records with them. In the rejoinder there is no averments to the effect that the documents filed by the applicants are not forged or fabricated.

6. We have gone through the rulings given by the learned counsel for the applicants. The judgment of the CAT, Jabalpur Bench in O.A. No.311/88, SB Soni Vs. Union of India decided on 19.12.90, is not relevant at all to the instant case since it deals with Art. 14 relating to discrimination in pay-scales. It deals with two different pay-scales allotted to Draughtsmen doing the same work and performing the same responsibilities as per the Third Pay Commission recommendations. It was held that this was discriminatory. In the present case neither there is any recommendation of Third Pay Commission that the pay-scales of Khalasis and the Greasers ^{should be} ~~not~~ same nor is there any averment to the effect that they perform the same duties.

The judgment given in O.A. No. 249/91 decided on 6.4.92 relates to the Art.14 and 16 of the Constitution in regard to pay fixation. This ruling has also no relevance to the present case.

As regards the ruling of the Hon'ble Supreme Court in the case ATR 1993 [1] SC 130 decided on 8.10.92 it also deals with Art. 14, 16 and 39(d) of the Constitution

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where the ~~lecturers~~ working in the Higher Secondary Schools in the State of M.P. and the lecturers working in Technical ^{Schools} were performing same duties and responsibilities and as such equal pay for equal work was held to be a valid principle. In the present case the facts are totally different. The Khalasis perform different duties and functions and as such there is no question of equal pay for equal work being applied to the present case.

The decision in OA No.1310/89 delivered on 24.9.91 also deals with Art.14, 16 and 39(d) where the duties, responsibilities and functions are the same and as such where same and similar functions are performed by two categories of staff and one is granted the pay-scale and other is not, it was held that Art. 14, 16 and 39(d) come into play and as such parity of scale was decided in favour of the applicants. In the present case the applicants were appointed as Khalasis and they were never asked to function as Greasers and the nature of duties and responsibilities of the two categories is different. As such the question of paying them the pay-scale of Greasers does not arise and there is no case for equal pay for equal work.

~~None of the rulings quoted by the learned counsel for the applicants has any relevance. Taking the totality of the facts and circumstances, we do not find any merit in the application and accordingly it is dismissed leaving the parties to bear their own costs.~~

(B.K. Singh)
Member (A)

J.P. Sharma
(J.P. Sharma)
Member (J)