

CAT/7/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 732/89
T.A. No.

199

DATE OF DECISION 28.08.1990.

Shri Bali Ram & Others	Petitioner
Shri D.N. Goburdhan	Advocate for the Petitioner(s)
Versus	
Union of India through the Secretary, Ministry of Railways & Others	Respondent
Shri P.S. Mahendru	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

JUDGMENT

**(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))**

The applicants, who have worked as Casual Labourers in the office of the respondents filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (1) to regularise and make them permanent in the post of High Skilled Workmen in the grade of Rs.380-560 (old scale);
- (2) to give them arrears and consequential benefits in the ^{said} ~~before~~ post; and
- (3) to fix their pay in the grade of High Skilled Workmen.

2. The facts of the case in brief are as under. Applicant No.1 has been in continuous employment since 1972. On 4.6.1981,

he was transferred to M.T. Project, Delhi. He was promoted to the post of Fitter in the pay scale of Rs.260-330 on 4.6.1981, after passing the requisite trade test. He was further promoted on 1.9.1982 to the post of High Skilled Fitter in the pay scale of Rs.330-480 and he worked in that capacity till 20.12.1984. According to him, he had passed the examination and had been medically examined and declared sucessful. His grievance is that he was summarily reduced in rank from the post of High Skilled category to the post of Khallasi in the pay scale of Rs.196-232 in January, 1985. He was again promoted to the post of Skilled Workmen in the pay scale of Rs.260-400 as a Fitter from 1.6.1985 till 8.11.1985 after passing the examination. He was again reduced in rank to the post of Khallasi from 18.11.1985. He has alleged that his appointment as Khallasi in the pay scale of Rs.196-232 amounts to a reduction in rank.

3. Applicant No.3 was also appointed in 1973 as a Khallasi and has continuously worked since then. He was promoted to the post of Mason in the grade of Rs.260-400 on 19.1.1981 and further promoted to the High Skilled Mason in the grade of Rs.330-480 after passing examination. Like applicant No.1, he worked till 20.12.1984. He has worked in the higher grade in Class III post for about 3 years. He was granted temporary status as Khallasi in the pay scale of Rs.196.232.

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4. The applicant No. 3 was again promoted to Mason in the grade of Rs.260-400 on 10.5.1985 in Class III post after test and was regularised as Class IV employee in the pay scale of Rs.196-232 on 30.6.1986. He was also reverted from Class III post to Class IV post. He contends that this amounts to reduction in rank.

5. The applicant No. 2 was also appointed in 1972. He also worked as Khallasi for many years. He was promoted to the post of Truck Driver on 18.9.1982 in the grade of Rs.260-400 and was further promoted to the post of High Skilled category in the grade of Rs.330-480 on 1.4.1984 after passing the test. He was then summarily reduced to the rank of Khallasi and was made permanent on 16.7.1986. in the maintenance unit.

He had passed the medical test and it is stated that the pay scale could not have been reduced from 330-560.

6. The applicants have also not been paid the arrears of pay and allowances consequent upon their regularisation as Khallasis.

7. The applicants have relied upon the Circulars issued by the Railway Board regarding regularisation of Casual Labourers. According to the Circular dated 20.12.1985, the skilled workers are to be regularised in the same post. By earlier Circular dated 29.12.1978, the Railway Board has directed that the Casual Labourers who have worked for 120 days, should be regularised.

8. The respondents have stated in their counter-affidavit that the applicant No.1 was appointed as Casual Khallasi on 18.5.1972 and subsequently, he was transferred to MTP Project, New Delhi, in the same category. However, he was put to work as Casual Fitter in the grade of Rs.260-400 with effect from 4.6.1981 without a trade test. He was put to work as H.S. Fitter in the grade of Rs.330-480 on 1.9.1982 after qualifying the trade test. Temporary status was given to him with effect from 1.1.1984 in the grade of Rs.196-232. He was put to work as Fitter in the grade of Rs.260-400 with trade test in May, 1985.

~~He was spared on 30.6.1986 to report to APO-IV, Divisional Railway Manager's Office, New Delhi, for further absorption.~~ After screening him, his name was placed on the panel of screened list of S&T Khallasis and appointed as regular Khallasi in the grade of Rs.196-232. He is at present working as Khallasi.

9. According to the respondents, applicant No.3 was appointed in 1973 as Khallasi under CSI (West)/Delhi. He was transferred to MTP, Delhi in 1981 as Casual Mason without trade test. He was put to work as High Skilled Mason in grade Rs.330-480 with effect from 1.9.1982 after qualifying the trade test. He was granted temporary status with effect from 1.1.1984 in the grade of Rs.196-232. He was put to work as Mason with effect from 10.5.1985 in the grade of Rs.260-400 after qualifying the trade test.

and he was given temporary status in the grade of Rs.196.232. He was spared to report to APO-IV at New Delhi on 30th June, 1986 for further absorption.

10. Applicant No.2 was appointed on 15.6.1972 as a Casual Khallasi and he continued in the same capacity till 14.9.1982. He was promoted as Casual Driver in the grade of Rs.260-400 on 15.9.1982. ~~He was promoted as Casual Driver in the grade of Rs.260-400 on 15.9.1982.~~ He was ^{further} promoted as Casual Driver in the highly skilled grade of Rs.330-480 on 1.4.1984. He was medically examined but could not qualify the prescribed medical test for the post of Driver in A-3 classification. He could clear B-2 classification which does not entitle him for the grant of temporary status in skilled category and as such, he could not be retained as a Driver in the same pay scale.

11. We have carefully gone through the records of the case and have heard the rival contentions. The respondents have contended that the applicants are Project Casual Labourers and as such they are entitled for the benefit of temporary status ^{only} on completion of 360 days and not 120 days of continuous work, as alleged in the application. The passing of the trade test is a pre-requisite for regularisation in the post. The applicants have not produced any cogent evidence to substantiate their claim that they are entitled to regularisation after having passed the prescribed trade test and medical examination. In view of this, their claim

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for regularisation in the post of highly skilled workmen in the grade of Rs.380-560 has not been substantiated.

12. The respondents have, however, admitted in their counter-affidavit that the applicants have acquired temporary status and pursuant to the judgment of the Supreme Court in the case of Inder Pal Yadav Vs. U.O.I., 1985 SCC(I&S) 526, they have become entitled to the benefits of temporary Railway servants from 1.1.1981. They have further stated that the arrears from 1.1.1981 to 1.1.1984, will be disbursed to the applicants in due course.

13. In the facts and circumstances of the case, the application is disposed of with the directions to the respondents to disburse to the applicants the arrears of pay and allowances from 1.1.1981 to 1.1.1984 within a period of three months from the date of communication of this order, if this has not already been done. The respondents are also directed to give to the applicants all the benefits and privileges of Railway employees who have acquired temporary status. They should also be considered for regularisation in the skilled category in accordance with their seniority and the rules governing such regularisation.

There will be no order as to costs.

Declaration
(D.K. CHAKRAVORTY)

MEMBER (A)

28/8/90

Onward
28/8/90
(P.K. KARTHA)

VICE CHAIRMAN (J)