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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.102/89

New Delhi, this 9th day of February, 1994.

Hon'ble Shri C.J.Roy, Member (J)

Hon'ble Shri P.T.Thiruvengadam, Member (A)

Shri Allaudin
s/o Shri Bundu
7/D, Railway Quarters,
Bagpat Road, Agarwal Mandi,
Tatari, Meerut (U.P).

.. Applicant.

(By Shri Ashok Aggarwal, Advocate)

Vs.

1. Union of India
through Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi.

2. General Manager,
Northern Railway,
Baroda Bouse, New Delhi.

.. Respondents

(By Shri BK Aggarwal, Advocate)

ORDER

(To be delivered by Hon'ble Sh.P.T.Thiruvengadam), Member (A)

The applicant states that he has been in the employment of respondents since 24-2-1967. Initially he was employed as carpenter-cum-blacksmith on casual basis. On 15-12-1978 he was made ~~as~~ a regular gang man. The applicant was posted ad hoc carpenter for a few months in the year 1982 and again in the year 1987. In this ^{OA} ~~case~~ ₁ he states that he even passed the trade test for ~~the~~ carpenter in the year 1985 but he was not regularised even though another person who appeared in the same trade test and who is alleged to be junior to him was made regular carpenter in May-June 1987. The applicant further pleads that at the time of ad hoc ^{in construction organisation} posting order as carpenter issued in the year 1987 ^{it} was made clear that the change of category from gang-man to carpenter is to be accepted by the competent authority and if such acceptance is not there, he would ~~not~~ be reverted back to the post of gang-man. However, his case was not referred to the competent authority for

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sanction for change in category. Hence this O.A. has been filed praying for a relief that he should be regularised as carpenter from the original date of engagement namely 24-2-1967 and the difference in salary between what has been paid and what should have been paid to him as carpenter be now ordered to be paid. The ld. counsel for the applicant argued that there were adequate vacancies for carpenters and it was wrong to have continued the applicant on casual basis. Even if the applicant had been regularised as gang-man it is for the concerned authorities to take steps for changing the categories suitably.

2. The ld. counsel for respondents, however, raised the preliminary objection that there is no order against which the applicant can agitate. Also the cause of action arose in 1978 when he was regularised as gang-man and the case is time barred.

3. Even on merits it was argued that the applicant has no case since he was only engaged as a casual employee w.e.f. 24-2-67 and had worked upto 15-12-1978 with breaks from time to time. Ad hoc appointments as carpenter made for a few months for construction organisation cannot entitle the applicant for any right for regularisation as carpenter. There is no channel of promotion from gang-man to carpenter and the applicant had been directed several times to exercise his option to first agree to become a Khalasi which is in a lower grade than that of gang-man. Still the applicant was willing for this change and gave an option dated 30-12-86 that he was prepared to accept bottom seniority in the category of works khalasi as well as fixation in the lower scale of khalasi. Having agreed for this change it is incorrect on the part of the applicant to file this O.A., as argued by the ld. counsel for the respondents. Comparison with others who had not ^{been considered for} ~~and~~ ^{nor} accepted regularisation as gang-man as it happened in the case of applicant in 1978, would

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not be proper.

4. Having heard both the counsels, we note that the applicant was working as a casual employee till he got regularised as a gang-man in the year 1978. At the time of regularisation the applicant gave in writing accepting the offer of regularisation on the terms ~~mentioned~~ ^{mentioned} in the offer. The provision that the Indian Railway Codes and other ~~instant~~ ^{existing} orders would apply to the appointee was incorporated in the order. The post of carpenter is not in the channel of promotion of gang-man. At some stage the applicant was even prepared to get reverted to the lower post of carpenter khalasi from the post of gang-man he was holding only with the hope of getting promoted as carpenter at a later stage. Mere holding of a casual level post as carpenter cannot entitle for regularisation from the date such casual post was held.. In the circumstances of the case, there is no force in the arguments advanced and accordingly the O.A. is dismissed with no costs.

P. T. Thiruvengadam
(P.T.THIRUVENGADAM)
Member (A)

C. J. Roy
(C.J.ROY)
Member (J)

9/2/94