

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
~~XXXXXX~~ (PRINCIPAL BENCH)

O. A. No.
~~XXXXXX~~

938/86

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DATE OF DECISION 3.9.91

Jagdish & 30 others Applicant (s)

Shri G.D.Bhandari Advocate for the Applicant (s)

Versus

Union of India (General
Manager, N.Railway) &
another. Respondent (s)

Shri D.N.Moolri Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. Rampal Singh, Vice Chairman

The Hon'ble Mr. N.V.Krishnan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? >
4. To be circulated to all Benches of the Tribunal? >

JUDGEMENT

N.V.Krishnan, AM

The applicants are employed as Khalasis, claimed to be unskilled artisan category, with the Delhi Division of the Northern Railway. They work as Khalasis on Hand Cranes and Steam/Diesel Crane in the Traffic/Transportation Department. Their authorized scale was Rs 70-85 and revised pay scale is Rs 196-232. Their grievance is that the posts held by them have not been upgraded to the semi-skilled grade as sanctioned by the Railway Board's letter dated 13.11.82 (Annexure-A). Hence, they have sought a direction to the respondents to upgrade 70% of the post of Khalasis held by the applicants as semi-skilled grade (Rs 210-290) and to give them all consequential benefits.

2. The short facts leading to this application can be stated:-

The applicants state that they are Khalasis working on Cranes in the Traffic/Transportation Department and they are an unskilled category of artisans. Their authorized scale (i.e. scale prior to 1.1.73) was Rs 70-85. It was revised on the Third Pay Commission's recommendations to Rs 196-232. The Railway Board had issued a circular (Annexure-A) dated 13.11.82 regarding re-classification of artisan staff in the Railways for the purpose of giving relief to semi-skilled and unskilled artisan staff. Para 2(ii) and 2(iii) read as follows:

"(ii) 60% of the existing un-skilled artisan strength in Production Units and workshops in all departments should be allotted the semi-skilled grade (Rs 260-400) and designated as Khalasi-Helper.

(iii) 50% of the existing strength in un-skilled artisan categories in the open lines establishments (all departments) applicable should be allotted the semi-skilled grade (Rs 210-290) and designated as Khalasi-Helper."

The percentages for upgrading were subsequently recommended to be revised by the Minutes of the meeting of the Joint Committee of Labour and Administration in regard to RWCT-1976 held on 1st and 2nd June 1984 (Ann.B)

The decision on this issue is as follows:

"After discussion, the Committee agreed on the ratio between unskilled artisan staff in grade Rs 196-232 and Khalasi Helpers in grade Rs 210-290 should be 30:70 both in open line establishments and in production units and workshops. This ratio will be applicable to all those unskilled staff in grade Rs 196-232 who have their avenue of promotion to artisan categories."

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The orders of revision have not been exhibited. However, neither the posts were upgraded nor the applicants have been given the benefit of the semi-skilled grade of Rs 210-290 in the revised scale. Therefore, the applicants have prayed for a direction to the respondents to re-classify and upgrade 70% of the posts of Khalasis held by them as semi-skilled grade posts to the grade of Rs 210-290 and to give them promotion to those posts along with consequential benefits.

3. The respondents have denied these claims. Two preliminary objections have been raised. The first one relates to limitation because the applicants are now seeking the benefit of the Railway Board's circular dated 13.11.82 by filing application on 27.10.86. It is contended that this is barred by limitation under section 21 of the Administrative Tribunals Act. The second objection is that the applicants have not exhausted the alternative remedies and that the petitioners 2 to 7, 11 to 19 and 21 to 31 at any rate cannot file this application as they had not filed any representation in this regard.

4. When the issue of limitation was raised, the learned counsel of the applicants submitted that the grievance of the applicants is a continuing one and therefore there is no bar to filing of the application. The relief in this application could be suitably modified to take into account this aspect of limitation. We are of the view that this submission of the learned counsel of the applicants has force and therefore we do not accept the plea of limitation raised by the respondents.

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5. It is clear that at least applicants 1, 8 to 10 and 20 have filed representations. The second objection has also no force because the representation is neither a statutory nor a prescribed alternative remedy.

It cannot be contended that unless a representation is filed the application becomes incompetent.

6. On merits, the respondents have submitted that the applicants are only unskilled Khalasis and not unskilled artisans. The benefits under the Ann.A letter dated 13.11.82 will accrue to unskilled artisans only. It is contended in para 5 of the reply as follows:

"There is a difference between a Khalasi and an artisan and an artisan is a skilled khalasi and has more knowledge and experience apart from other things than an ordinary skilled or unskilled khalasi."

If this statement is to be relied and a skilled khalasi is treated as an artisan, there should be no objection to treat the unskilled khalasi as an unskilled artisan. That apart, if khalasis are not unskilled artisans, the Ann.A memorandum dated 13.11.82 would not have said that the semi-skilled job should be designated as khalasi helpers. This implies that a khalasi is an unskilled artisan.

7. The respondents have merely averred that the Railway Board's letter dated 13.11.82 does not apply to the category of the applicants. Having heard ^{the Counsel} and perused the records we are satisfied that the grievance raised by the applicants is genuine. The respondents are merely playing with words when they contend that the applicants are only khalasis and not unskilled artisans. On the other hand, they state in para 5 of their reply that an artisan is a skilled khalasi, which implies that artisans ^{can} generally be only skilled workers. This has no

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basis because the Annexure-A memorandum itself speaks of unskilled artisan staff. In other words, artisans can be either skilled employees or unskilled employees. A khalasi like the applicants is an unskilled artisan because he earns his living by the strenuous use of his limbs.

8. Para 3 of the Annexure-A letter lends support to this view. After referring to re-classification to the semi-skilled category designated as Khalasi-helpers, it states as follows:

"Even after such upgradation these staff will continue to perform un-skilled functions of simple manual work like loading and un-loading, sweeping of floors and transportation of material etc. in their respective trades."

Khalasis perform these unskilled functions and are unskilled artisans.

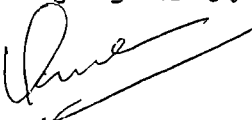
9. It is clear from para 2(ii) and 2(iii) of the Annexure-A memorandum dated 13.11.82 that government had taken decision to upgrade 60% of the unskilled artisans strength in production units and workshops in all Departments and 50% of such posts in the open line establishments of all Departments to the semi-skilled grade of Rs 210-290. There are recommendations to increase this percentage as can be seen from the Annexure-B minutes of the meeting held on 1st and 2nd June 1984.

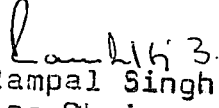
10. We are, therefore, satisfied that the applicants are unskilled artisans and therefore the Annexure-A memorandum will squarely apply to them. They are, therefore, entitled to a direction in their favour.

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11. Accordingly, we dispose of this application with the following directions:

- (a) The respondents are directed to upgrade the posts of khalasis held by the applicants to the posts in the semi-skilled grade of Rs 210-290 and to then fix the scale of these posts appropriately on the basis of the decisions of the Government on the Fourth Pay Commission's recommendation. The percentage of re-classification of these posts will be in accordance with the provisions of para 2 of the Annexure-A memorandum unless it has been further liberalised by decisions taken on the Annexure-B minutes.
- (b) The applicants are entitled to be considered for absorption to the semi-skilled grade of Rs 210-290 from 3.11.85, i.e. 12 months before the date on which this original application was considered by the Bench, keeping in view the issue of limitation raised by the respondents, and if so absorbed, the respondents are directed to give them all financial benefits due to them.
- (c) These directions should be complied with in a period of three months from the date of receipt of this judgement.


(N.V. Krishnan)
Administrative Member


(Rampal Singh)
Vice-Chairman(J)