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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2421/90

New Delhi this the 23rd Day of February, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Kartar Singh s/o Sh. Gordhan,
working as C/L Valvemena at
Northern Railway, Sirsa (Haryana) Applicant

(By Advocate Sh. V.P. Sharma)

Versus

1. Union of India through the
General Manager,
Northern Railway,
Baroda House, New Delhi.

2. The Divisional Railway Manager,
Northern Railway, Bikaner.

3. The Assistant Engineer,
Northern Railway, Sirsa (Haryana)

4. Prem Kumar s/o SH. Bhura Ram,
I.O.W. Office, Sirsa (Haryana) Respondents

(By Advocate Sh. B.K. Aggarwal)

ORDER (Oral)

Hon'ble Mr. N.V. Krishnan:-

We have heard the learned counsel for the parties. The case is made clear from the pleadings, particularly of the respondents. The applicant was a casual labourer Khalasi under the third respondent - the Assistant Engineer, Northern Railway, Sirsa. Admittedly, he was successfully screened as a Gangman in 1983, as would be evident from the Annexure R-9 notice. Subsequently, he was posted as Gangman in the first instance by the letter dated 31.3.86 (Annexure R-8) when he was posted under PWI MKS. He was unwilling to go on transfer as his child was suffering from Polio. There was a further transfer in 1987

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(Annexure R-7) which also he declined. Considering his personal problems, the competent authority permitted him to continue as a Khalasi in Sirsa itself.

2. It is about that time that a screening took place for vacancies of Khalasi under I.O.W. Sirsa to which he was not called. Finally, he submitted a representation to the Divisional Railway Manager, Northern Railway on 10.2.88 (Annexure R-2) in which he specifically prayed that he should be screened as Khalasi and posted as Khalasi under I.O.W. Sirsa and his category may be changed as Khalasi from Gangman, as he was not in a position to go out to Sirsa. That representation apparently has not been disposed of.

3. The applicant then filed this OA for a direction to the respondents to consider him for regularisation of his service from the date his juniors, specially respondent No.4, were regularised along with all consequential benefits.

4. In their reply the respondents state that, having been screened as a Gangman and posted as a Gangman, the applicant could not be further screened for the post of Khalasi. It is stated that the first time he made an application for change of category was only on 10.2.88 (Annexure R-2). He is being accommodated as a Khalasi temporarily at Sirsa in view of his request.

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5. We have heard the learned counsel for the parties. The learned counsel for the applicant submitted that the applicant was never interested to be absorbed as Gangman and, therefore, the respondents were bound to consider him for regularisation as a Khalasi. In answer to a query as to whether, at any time in the past, before the Annexure R-2 representation was submitted, he ever protested against his screening as a Gangman or transfer as a Gangman, the learned counsel could not give satisfactory reply. It is clear that in so far as the screening of the applicant as a Gangman is concerned, it became final and he was being posted as a Gangman from place to place. It is a different matter that on his representation, the transfer was not enforced against him and he was continued at Sirsa as Khalasi. Therefore, if he was not considered as a Khalasi, after he was absorbed as a Gangman, the respondents cannot be faulted.

6. The learned counsel for the respondents submits that the OA is barred by limitation. We are of the view ^{it} this that point would be valid only if the applicant is agitating against the order of screening as a Gangman or the order of transfer as a Gangman. That is not the case. Hence, there is no bar of limitation.

7. We wanted to know from the learned counsel for the respondents as to what has been done to the Annexure R-2 representation which is a specific request for change of category from Gangman to Khalasi. He was unable to produce any document or record to show

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what has happened. He states that, despite his efforts, he has not received any instruction in this behalf. We also wanted to know whether under the rules, a change of category is not permitted. The learned counsel states that, according to his information a change of category is permissible subject to certain conditions laid down in the concerned Manual or Rules.

8. In the circumstances we are of the view that in so far as the status of the applicant is concerned, he continued to be a Gangman. He made a request for change of category from Gangman to Khalasi in specific terms in the Annexure R-2 representation. That ought to have been disposed of within a reasonable time, say, within three months thereafter. In the circumstances we are of the view that this OA can now be disposed of with suitable directions to the respondents.

9. The respondents are now directed to consider the representation of the applicant dated 10.2.88 (Annexure R-2) made to the Divisional Railway Manager, Northern Railway, Bikaner for change of category from Gangman to Khalasi in accordance with the provisions of law and dispose it of, under intimation to him, in accordance with law. In case the change of category is allowed, the respondents are also bound to give the applicant the benefit thereof from the earliest date from which a vacancy of Khalasi arose under the I.O.W. Sirsa on or after 1.6.88, with all consequential benefits.



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10. The O.A. is disposed of, as above. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

'Sanju'

N.V. Krishnan
23.2.95

(N.V. Krishnan)
Vice-Chairman(A)