

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. CA 403/90

Date of decision: 18.5.1990

Shri Jokhu Ram

...Applicant

Vs.

Union of India through the
Controller of Stores, Northern
Railway

...Respondents

For the Applicant

...Shri R.L. Sethi,
Counsel

For the Respondents

...Shri O.N. Moolri,
Counsel

CORAM:

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 Judgment? Yes
2. To be referred to the Reporters or not? NO

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

The grievance of the applicant, who has filed this application under Section 19 of the Administrative Tribunals Act, 1985, is regarding his non-regularisation in the post of Junior Packer even though he has officiated on ad hoc basis in the said post continuously for over 3 years from 10.11.1986. He has prayed that his appointment to the post of Junior Packer be deemed as regular and that if necessary, he may be subjected to suitability test and if declared suitable, should be regularised from the date of his initial appointment on 10.11.1986.

An

2. The application was admitted on 13.3.1990 when an ex-parte interim order was passed to the effect that status quo as regards the continuance of the applicant in the post of Junior Packer, be maintained. The interim order has thereafter been extended till the case was heard and judgment reserved by us.

3. The applicant has stated that he is a regular Khalasi and that as and when vacancies become available, such of those Khalasis, who indicate their willingness, are appointed to officiate as Junior Packers. When a vacancy arose in November, 1986, he gave his willingness and he was appointed to officiate as Junior Packer on ad hoc basis. He has, however, not been called for suitability test which was to be held on 5.3.1990. He contends that having officiated in the post of Junior Porter on ad hoc basis, he has a preferential right to be called for the suitability test.

4. The respondents have filed their counter-affidavit contesting the claim made by the applicant. They have stated that according to the rules, the senior-most Khalasi is considered for promotion as Junior Packer. The applicant was allowed to officiate as Junior Packer purely on ad hoc basis and subject to replacement by a regularly appointed person. The name of the applicant was not included in the list of eligible employees for appearing in the suitability test scheduled to be held on 5.3.1990 as he was junior to the employees who were allowed to appear in the test. They have contended that

O

(P)

the applicant did not fall within the zone of eligibility to be called for suitability test and that his officiation in the said post is of no consequence.

5. We have heard the learned counsel of both parties and have perused the records of the case carefully.

There were only 11 vacancies in the post of Junior Packer for which 11 persons, in the order of seniority, were called to appear for the suitability test. The learned counsel of the respondents stated that the applicant also will be called for similar test, in accordance with his seniority in the future.

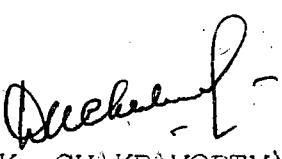
6. In our opinion, the mere fact that the applicant has officiated in the post of Junior Packer will not entitle him to any preferential treatment. Promotion to the post of Junior Packer on regular basis would depend on the relevant rules, which have not been challenged in the present proceedings. The applicant is comparatively young in age as he is only 40 years old and he has got a long number of years of service left. He has many more opportunities to appear in the suitability test and qualify in the same in future, in his own turn. The mere fact that he has officiated in the post when his seniors did not express any willingness for such officiation, does not give him any better claim over them. It is also clear from the judgment of the Full Bench of this Tribunal in

Q

Jetha Nand & Others Vs. Union of India & Others,
1989(2) SLJ 657 (CAT) that a Railway employee holding
a promotional post on ad hoc basis can be reverted to his
original post, if he has not qualified in the selection
test.

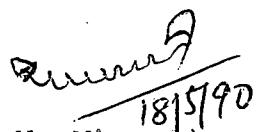
7. In the light of the above, we see no merit in the
present application and the same is dismissed. The interim
order passed on 13.3.1990 is hereby vacated.

The parties will bear their own costs.


(D.K. CHAKRAVORTY)

MEMBER (A)

18/5/90


(P.K. KARTHA)
18/5/90
VICE CHAIRMAN (J)