

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

(6)

Regn. No. O.A. 500/1990.

DATE OF DECISION: 9-11-1990.

Bhoorey Applicant.

Shri B.D. Thareja Counsel for the Applicant.

V/s.

Union of India & Ors. Respondents.

Shri Inderjit Sharma Counsel for the Respondents.

CCRAM: Hon'ble Mr. P.C. Jain, Member (A).

Hon'ble Mr. J.P. Sharma, Member (J).

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? *No.*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No.*

J.P. Sharma
(J.P. SHARMA)
Member(J)

P.C. Jain
(P.C. JAIN)
Member(A)

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 500/1990. DATE OF DECISION: November 9, 1990

Bhoorey	Applicant.
Shri B.D. Thareja	Counsel for the Applicant.
	V/s.	
Union of India & Ors.	Respondents.
Shri Inderjit Sharma	Counsel for the Respondents

CORAM: Hon'ble Mr. P.C. Jain, Member (A).
Hon'ble Mr. J.P. Sharma, Member (J).

(Judgement of the Bench delivered by
Hon'ble Mr. P.C. Jain, Member (A).)

JUDGEMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant is aggrieved by his non-promotion in the Artisan grade as a Carpenter and has assailed the promotion of respondents No.4 and 5 to the above category, vide impugned order dated 19.1.1990 (Annexure A-1). He has prayed for (1) quashing the above impugned order and for declaration of the promotion of respondents No.4 and 5 as irregular; (2) to deem the applicant to have been promoted in the artisan grade of Rs.950-1500 with effect from the date of the impugned order if not earlier; and (3) he be paid the difference of wages of a carpenter and a khalasi for the period the applicant has worked as carpenter.

2. The relevant facts, in brief, are as below: -

The applicant claims that he was appointed as a casual labour carpenter under Inspector of Works, Gajraula in the Moradabad Division, in the year 1957. The respondents have denied this averment and have stated that the applicant was appointed as a Gangman by the P.W.I., Dhampur, with effect from 8.9.65 in the pay scale of Rs.70-1-85 and

in support of the same, a photostat copy of the first page of the service book of the applicant has been filed as Annexure R-1. He was transferred as Khalasi in the same scale of pay under I.O.W., Hapur where he joined with effect from 2.6.69. Later on, he was transferred to Kankather under I.O.W. Gajraula where he joined with effect from 10-12-77.

3. The applicant's case, in brief, is that since his posting at Gajraula towards the end of 1977, he has been working as a carpenter, though he has been shown and paid for only as a Khalasi. He admits that he did not object to this arrangement with a view to becoming perfect in work, in the hope to get promotion, and due to status in society. In support of his contention of having worked as a carpenter he has filed some reports of doing some repairs / fitting work as Annexure A-2 to Annexure A-12. He has also filed as Annexure A-19 a copy of letter dated 7.11.89 in which the Assistant Engineer, Hapur requested Divisional Engineer Headquarters, Moradabad for sanctioning some posts of mason/ carpenter. The representations made by him on 19.10.85 and thereafter have been filed at Annexure A-13 to A-16. The main thrust of the case of the applicant is that he being senior to respondents No.4 and 5, should have been promoted to the artisan category before they were promoted and that he has put in a long service but has not yet been promoted.

4. The respondents have contested the application.

5. We have perused the material on record and heard the learned counsel for the applicant and for respondents No.1 to 3. There was no representation on behalf of respondents No.4 and 5, to whom notice was issued in March/ April, 1990, but neither the acknowledgement of service

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was received, nor the notice was received back as unserved. They will be presumed to have been served with the notice.

6. The learned counsel for the applicant fairly conceded at the bar that passing the trade test is a condition precedent to appointment in the artisan category, and that the applicant has not so far passed such a trade test. This is also the case of the respondents that the applicant took the trade test held on 17.12.88 and again on 11.12.89, but he was not found suitable in the above tests. On the other hand, respondents No.4 and 5 were declared successful in the test held on 11.12.89 and this is reflected in the impugned order at Annexure A-1. In view of these facts, it is not possible for us to hold that the applicant was entitled to be promoted to the grade of artisan as carpenter or that the promotion of respondents No.4 and 5 is not valid. Seniority alone is not enough in the matter and it was necessary for the applicant to have passed the trade test before becoming entitled to consideration for promotion.

7. As regards his prayer for payment of the difference of the wages of a carpenter and a khalasi for the period he states to have worked as carpenter, it may be observed that the applicant has not produced any order of any sort which could establish that he was ever appointed as a carpenter. The respondents have specifically denied any such appointment. Even in his representation, he has admitted that he was still working as a carpenter-khalasi. Annexures A-2 to A-12 do indicate that he sometimes did some work which may normally fall in the category of the duties of a carpenter. However, there is nothing before us to show that a post of carpenter existed at the place where he was employed or that he was qualified to perform the duties of a carpenter or in fact actually performed the full duties of the post of a carpenter. The work shown to have been done in Annexures A-2 to A-12 is of minor nature and mostly of repairs and fixation. The respondents have

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admitted in their counter-affidavit that the applicant was off and on utilized as a carpenter-khalasi, but was never posted as a carpenter. The letter of the Assistant Engineer at Annexure A-19 only corroborates the above statement.

8. In view of the foregoing discussion, the application merits rejection and is accordingly dismissed, leaving the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA)
Member(J)

P. C. Jain
(P.C. JAIN)
Member(A)
9/11/74