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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. 2827/91

Date of decision: 26.7.93

Shri Rishi Pal and others

Petitioners

Shri A.K.Bhardwaj

Advocate for the Petitioner(s)

Versus

U.O.I. and ors

Respondents

Shri I.C. Sudhir

Advocate for the Respondent

CORAM:

THE HON'BLE MR. JUSTICE S.K.DHAON, VICE CHAIRMAN

THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER (A)

JUDGEMENT (ORAL)

(On the Bench delivered by Mr.Justice S.K.Dhaon)

A number of reliefs have been claimed in this application. However the 1d. counsel appearing for the petitioners has pressed only for the following reliefs:-

- a) That the seniority list of C&W Khalasis of Delhi Division issued vide letter No. 847-E/40-P-8 dated 4/1/1988 may please be directed to issue the correct seniority list of C&W Khalasis (grade Rs. 750-940) of Delhi division, in accordance with rules.
- b) That, the respondents may please be directed to include the applicants in the seniority list of C&W Khalasis (Grade Rs. 750-940) of Delhi division.
- c) That the respondents may please be directed to determine the seniority of the applicants on the basis of the dates of their acquiring temporary status.
- d) To direct the respondents to give a chance to the petitioner to appear in the trade test.

The respondents have been granted time to file counter affidavit. No counter affidavit is forthcoming.

In the absence of any counter affidavit we have no option

but to proceed on the assumption that the averments made in the OA are correct.

The material averments are these. The 22 petitioners before us were engaged as casual labourers in the office of C&W Superintendent on various dates commencing from the year 1979 ending year 1985. They acquired temporary status w.e.f. 1.9.85 and they were declared entitled for the regular pay scale in the grade of Rs. 750-940 alongwith other benefits provided in the regular Group 'D' employees in the Railway Department. They were directed to appear in the screening test to be held on 19.12.86 at 10 a.m. As a result of the said test, they were declared passed and they were posted in the office of the C&W Superintendent to work as C&W Khallasi. on 4.1.1988. The respondents issued a seniority list of C&W Khallasi but the names of the petitioner were not mentioned in the said list. on 8.2.88. The petitioners made a representation to the DPO of Delhi division to include their names in the said list but the same was not replied by the DPO till date.

Vide letter dt. 19.5.89 the respondents called the junior C/Khallasi for the trade test for promotion to the post of H/Khallasi in the grade of Rs. 800-1125 in preference to the petitioners, however, the petitioners were not called for the test. As a result of the trade test dt. 8.9.1989 the respondents promoted 54 junior Khallasis being aggrieved by the promotion of junior and similarly situated employees the petitioners made representation against the illegal promotion of C&W Khallasi to the post of H/Khallasi. But no reply is forth-coming.

It is now too late for the petitioners to contend that the test held in 1988 and in so far as they were prevented from appearing in the said test. As a consequence of fixation of seniority accorded to them. It is now to late for the petitioners to press for the quashing of the seniority list.

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Having considered the matter carefully we feel that it will be in the interest of justice if we direct the respondents to include ^{the} name of the petitioners in the seniority list of the Khalasis (feeder grade). However the respondent should give all the petitioners a reasonable opportunity to appear in the trade test. For that purpose, if necessary, a trade test may be held for the petitioners alone. The respondent shall carry out these directions as expeditiously as possible but not beyond a period of 3 months from the date of presentation of a certified copy of this order by any of the petitioners before the relevant authority.

With these directions, this application is disposed of finally but without any order as to costs.

B.N.Dhundiyal
(B.N.DHUNDIYAL)
MEMBER (A)
26.7.93.

S.K.Dhaon
(S.K. DHAON)
VICE CHAIRMAN (J)
26.7.93