

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA.No.1130/91

Date of Decision: 14-8-92

Shri Yasin & Ors.

Applicant

Shri B.S. Mainee

Counsel for the applicant

Versus

Union of India & Ors.

Respondents

Shri Romesh Gautam

Counsel for respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporters or not? *yes*

JUDGEMENT

(of the Bench delivered by

Hon'ble Member Shri B.N. DHOUNDIYAL)

Four Masons and Two Carpenters, who have worked in the office of Inspector of Works, Northern Railway have filed this OA, challenging the impugned order dated 2.5.91, issued by Assistant Engineer, Northern Railway, seeking to revert them from the post of Carpenter/Mason, to the post of Khalasi. They were appointed as Casual Labourers on daily wages on various dates between 1973 and 1976 and had acquired temporary status with regular pay scales. Though they were qualified Carpenters/Masons and working as such, they started their career as daily wage earners. The promotion of such casual labour to semi-skilled and skilled posts is provided in the circulars

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of the Railway Board dated 1.2.65 and 19.7.65 and 25% of the vacancies earmarked for the Departmental promotees are reserved for them. The required trade test was held and on 10.1.90, all of them were declared qualified. They were given higher pay scale of Rs.950-1500. The applicants have alleged that their order for reversion have been issued due to pressures from the Union even though the posts on which they were working are still existing. ⁱⁿ An interim order was passed by this Tribunal on 10.5.91, directing the respondents not to revert the applicants, which has continued till date. The respondents have denied that the applicants were working as Carpenters/Masons and have stated that they were given the pay scale of Rs.950-1500, after passing the selection, on temporary basis. These posts were work charged and were sanctioned for a short period.

2. The applicants have averred that a number of persons who have not passed the trade tests are working as Artisans and have given examples of Shri Jamil, Mason under I.O.W. Hapur and Shri Hari Ram, Mason under I.O.W. Jaipur. They have also drawn our attention to the Judgement given by the Principal Bench in OA.500/90, decided on 9.11.90. The promotion of some of the applicants in this OA was challenged by one Shri Bhurey on the grounds of seniority. His application was dismissed as the Tribunal held that the trade test is a condition precedent to any appointment to the Artisan category and Shri Bhurey had failed in these tests. The learned counsel for the applicants has stressed the fact that in the above case, the promotion of two of the applicants in this OA was justified by the respondents and upheld by the Tribunal. However, it has been alleged that Shri Bhurey, who is a member of the Union pressurised the Government to withdraw these orders of promotion. The

impugned order dated 2.5.91 does not mention the reason for reversion of the applicants and the subject title indicates that it had been issued as a result of discussions with Northern Railway Mazdoor Union and that the promotions were regarded as irregular. However, the respondents have not come out with any explanation as to why these promotions were regarded as irregular.

3. In the facts and circumstances of the case, we hold that the impugned order dated 2.5.91 has been issued under unexplained and extraneous circumstances and the applicants have a right to continue to work as Masons and Carpenters, as long as vacancies exist.

4. We, therefore, order and direct as follows:-

(i) The impugned order dated 2.5.91 reverting the applicants to their original DCL posts, is hereby set aside and quashed.

(ii) The respondents shall carry out a review of the vacancies available for departmental promotees. The departmental candidates selected through the tests so far, shall be deemed to have been included in an approved panel and no promotions to these posts shall be made till all those whose names are indicated in the panel are adjusted.

(iii) The interim order passed on 10.5.91 is hereby made absolute.

(iv) There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER(A)

14/8/92

P.K. Kartha
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VICE CHAIRMAN(J)