

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

DATED : THIS THE 18TH DAY OF December 1998

Coram:- Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S.K. Agarwal, J.M.

ORIGINAL APPLICATION 193 OF 1998

Laxman Prasad aged about 48 years son of Sri Tatiya Ram
resident of Heerapura, Prem Nagar, Jhansi.

... Petitioner.

C/A Sri R.K. Nigam, Advocate.

Versus

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. Dy Chief Engineer (Construction) Central Railway Jhansi.

... Respondents.

C/R Sri G.P. Agarwal, Advocate.

ORDER

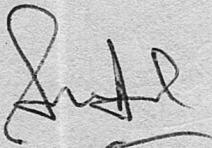
BY HON'BLE MR. S.K. AGARWAL, MEMBER (J.)

In this Original Application the prayer of the applicant has been to direct the respondents to modify their order dated 3.2.98 to the extent that the applicant be absorbed in skilled artisan category against the prescribed quota and to protect the pay with all consequential benefits.



In brief facts of the case as stated by the applicant are that the applicant was appointed as Khalasi on 30.3.79 and on attaining temporary status he was absorbed as skilled Carpenter in the pay scale of Rs.950-1500 (Revised Pay Scale) on 19.2.1984. Since he is continuously working as skilled artisan. Therefore the applicant should have been regularised as skilled artisan but all of a sudden the applicant in the garb of absorption was relegated as Gang-man in Group 'D' category in pay scale of Rs.775-1025 which is against the law and instructions issued by the department. It is stated that principal bench recently deplored the action of respondents absorbing the skilled artisan to group 'd' post. It is also stated by the applicant that by the subsequent order pay of the applicant was fixed at the rate of Rs.3875/- per month in the pay scale of Rs.3050-4590. It is stated that the applicant has thirteen years service at his credit and in the similar cases principal bench delivered the judgment to absorb the petitioners in skilled artisan grade. Therefore the present action of the respondents is in violation of Art.14 and 16 of the Constitution of India. Thus it was requested to modify the order dated 3.2.98 and to protect the pay of the applicant as mentioned above.

Counter Affidavit was filed by the respondents. It is stated by the respondents that the applicant has been regularised against Group 'D' post as per Railway Board's letter dated 8.4.97. The applicant was initially engaged as casual Khalasi on 30.3.79 and temporary status was given to the applicant on 19.2.84. The applicant has been given promotion in



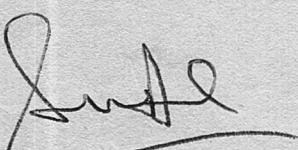
Group 'C' on adhoc basis vide order dated 3.2.98 after following the instruction of the Railway Board and the name of the applicant has already been sent to D.R.M. Jhansi for screening and absorption for 25% quota. Therefore there is no violation of Art.14 and 16 of the Constitution of India in the case of the applicant and thus by this counter respondents have prayed to dismissed this Original application with costs.

Rejoinder has been filed by the applicant.

Heard the learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record.

As regards relief sought by the applicant is concerned, it appears that the applicant was initially engaged as casual Khalasi on 20.2.79 therefore he is not entitled to absorption against the post of skilled artisan. It appears that vide order dated 30.12.79 the applicant has been relegated from the post of skilled artisan grade III in the pay scale of Rs.950-1500 (R.P.S.) to Class IV category in the grade of 750-940(R.P.S.) as Khalasi.

In Union of India and others Vs. Moti Lal and others (1996)33 A.I.C. 304, it has been held by the Hon'ble Supreme Court of India that persons appointed directly as casual mates although continue as such for a considerable period and thereby acquiring temporary status are not ipso-facto entitled to regularisation. In view of the above legal position the applicant in this case is not at all entitled to regularisation in Group 'c' in the grade of Rs.950-1500 as recruitment against this post can be done by recruitment board. The applicant was engaged as casual labour, therefore, he was screened for group 'd' post and was regularised by the respondent by order dated



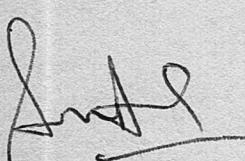
30.12.97.

Learned lawyer for the applicant has submitted that in view of the judgment delivered by the Principal Bench, New Delhi in O.A. 1021/91 the order dated 30.12.97 may not be given effect thereto and the applicant be allowed to continue as skilled artisan Grade III till he is not promoted against 12½% to 25% quota

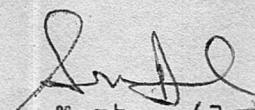
12 In Ram Kumar Vs. Union of India and Others, the Hon'ble Supreme Court of India held as under:-

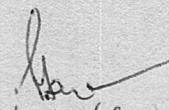
- i. Railway casual labour working in 'C' category may be screened and regularised in group 'D' category but their pay and allowances be protected upto their promotion in 'C' category.
- ii Railway casual labour working in 'C' category for five years may be screened in 'C' category and regularised .
- iii Railway casual labour attaining temporary status entitled to pensionary benefits.

We are therefore of the opinion that the applicant is not entitled to a relief sought for in his O.A. The applicant is working as skilled artisan grade III in the pay scale of Rs.950-1500. However, it will be proper and in the interest of justice for the applicant that the respondents shall protect the pay of the applicant in view of the judgment of Apex Court in Ram Kumar Vs. Union of India and others.


We therefore dismissed this O.A. as the applicant is not entitled to any relief sought for in the O.A. However, the respondents shall protect the pay of the

applicant in view of the judgment of the Apex Court in Ram Kumar Vs. Union of India and others. This judgment shall not preclude the respondents to permit the applicant to work as skilled Artisan in the pay scale of Rs.3050-4590 till he is promoted for Group 'C' post against quota of promotion. No order as to costs.


Member (J.)


Member (A.)