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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.1426 of 1982 (C.M.Writ Petition
No. 6277 of 1980

Lakhan Pal (since deceased)
and 7 others

...

Applicants.

Vs.

Union of India and 18 others ...

Respondents.

Hon'ble D.S.Misra, AM
Hon'ble G.S.Sharma, JM

(By Hon'ble G.S.Sharma, JM)

This writ petition under Art.226 of the Constitution of India has been received from the High Court of Judicature at Allahabad u/s.29 of the Administrative Tribunals Act XIII of 1985.

2. It is alleged that the Applicants (hereinafter referred to as the Petitioners) are confirmed Mistries in the workshop of the North Eastern Railway at Izatnagar Bareilly and respondent nos. 4 to 19, who are also Mistries grade I and are much junior to the petitioners, are holding the ex cadre posts in the Production Control Organization (for short PCO) Izatnagar- i.e. the upgraded posts of Chargeman 'C' in accordance with the Mian Bhai Award. The grievance of the Petitioners is that the posts in the PCO are tenure posts and the respondent nos. 4 to 19 have no right to continue in the PCO for an indefinite term after completion of their tenure there and the respondent nos. 4 to 19 were further wrongly ^{given the higher grade} ~~promoted~~ as Chargeman 'C' vide order dated 20.4.1980 in the PCO ignoring the claim of the Petitioners who were senior to them in the seniority list of workshop. They accordingly prayed that the order dated 20.4.80 passed by the Production Engineer- respondent no.3 be quashed.

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3. The petition has been contested on behalf of the Union of India as well as the private respondents. In the counter affidavit filed on behalf of the Union of India by the Asstt. Personnel Officer, Izatnagar it was admitted that the posts in the PCO are ex cadre posts and are to be filled in on tenure basis for a period of 5 years. It was further stated that the respondent nos. 4 to 19 have their lien as Skilled Artisans in the workshop and they were upgraded as Chargeman 'C' -now Chargeman 'B' subject to their replacement by eligible candidates. The respondent nos. 4 to 19 were allotted the upgraded posts in accordance with the circular letter dated 9.10.1979 of the Railway Board and they are liable to be transferred to the workshop but in the exigencies of work, they have not been transferred so far.

4. ^{Counter affidavit 1} In the ~~rejoinder~~ filed on behalf of the private respondents, it has been stated that the respondent nos. 4 to 19 who were formerly Mistries grade I in the workshop were supervising the work of Highly Skilled Grade Workmen and ^{they} ~~the~~ were rightly upgraded as Chargeman 'C' and then Chargeman 'B' in accordance with the rules and the orders of the Railway Board. These respondents were appointed in the PCO after due selection and were confirmed vide order dated 20.4.1980 and their lien in the workshop has come to an end and they are not liable to be reverted to the workshop. The respondent nos. 4 to 19 have a right to hold their present posts in the PCO and the relief claimed by the petitioners is misconceived.

5; This petition was heard by this Bench along with three writ petitions- T.A.Nos. 965 of 1987, 1024 of 1986 and 1000 of 1987 filed by the Chargemen 'C' now Chagemen 'B' of the Izatnagar and Gorakhpur PCOs. The said three writ petitions have been disposed of today and it has been held that the post of Chargeman 'C' now Chargeman 'B' in the PCO is ex-cadre post and the staff coming in the PCO from the workshops has no right to hold the said post indefinitely after completion of their tenure and they are liable to be reverted to their parent workshops in accordance with the circular letters dated 22.4.1963 and 13.9.1984 of the Railway Board. The Tribunal has turned down their request that they are liable to be absorbed in the PCO as their permanent staff. For the reasons given in our judgment in the said cases, we hold that the upgradation of the respondent nos. 4 to 19 as Chargeman 'C' and thereafter as Chargeman 'B' was not illegal and as such, the impugned order dated 20.4.1980 cannot be set aside in the instant writ petition. The respondent nos. 4 to 19 have, however, no right to remain in the PCO merely on the basis of their confirmation there and they are liable to be reverted to their respective shops floors.

6. The petition is disposed of accordingly without any order as to costs.

Subrahmanyam
MEMBER (J)

Dated: 9th May, 1989
kkb

Bhagwan
MEMBER (A)