

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

D.A. No. 958/1987

Mohd. Nasiruddin Khan

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The case has a chequered history, as the controversy leading to this application was first initiated in the year 1966 and although one set of litigation is over, but the second set is still not over. The applicant entered the Railways as Khalasi in the year 1964. Working as Khalasi for ^{months} ~~one~~ together, he attained the temporary status. All of a sudden from September 1967 no work was taken from him and he was not paid also wages for several months, for which he approached the authority under the Payment of Wages Act. The applicant's ^{plea} ~~appeal~~ was allowed on 12.8.69¹ but against the ^{order} ~~appeal~~ the respondents filed the appeal² ~~in the High Court~~ before the District Judge who allowed the appeal vide his order dated 16.12.69. The applicant filed revision before the High Court and the revision was allowed vide order dated 2nd August, 1971. Thereafter, the applicant approached the respondents stating that the applicant, now may be given wages, as he was to be deemed in service. It appears that the applicant was taken back in service, but vide order dated 1.2.72 his services

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were terminated. The applicant filed Suit against the said termination order and the said suit was decreed in favour of the applicant on 22.5.1980, whereafter the applicant was again reinstated back in service.

2. The grievance of the applicant is that even thereafter, his/due seniority was not restored and the pay scale was not given to him and his juniors were placed in the pay scale of Rs 1130-1500, while the applicant was still placed in the pay scale of Rs 260-400. His juniors ~~and~~ Ram Karan and Ram Dhwaaja were promoted to Grade II and subsequently placed in the pay scale of Rs 1200-1800. The applicant made representations against the same, as he failed^{to}/get the relief and he approached the Tribunal.

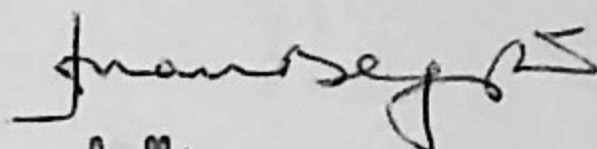
3. The respondents have disputed the claim made by the applicant and have stated that the applicant has been given due seniority and pay scale to which he is entitled and also has been given to him. It has been stated that as the appellate court did not make any specific order for ~~appointme~~ payment of/dues from 1.2.72 to 15.1.82, the applicant has not been paid wages, as the same has become time barred. It has been further stated that the applicant who had passed the prescribed medical examination and was found suitable, was deemed to have been appointed as Khalasi with effect from 27.1.69, the date from which his juniors Ram Karan and Ram Dhwaaja was absorbed as Khalasi and that he was trade tested for the post of Highly skilled grade II Electrician in the scale of Rs 1200-1800 from 3.2.87 but he failed in the test and as such not considered for the post of Highly Skilled Grade II Electrician in the scale of Rs 1200-1800

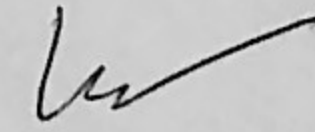
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The other persons were posted and promoted in the pay scale of Rs 1200-1800. After having failed in the trade test he became eligible for trade test on the expiry of six months. The applicant's juniors were trade tested and posted in the pay scale of Rs 1200-2040. This may be the position of the year 1987 but in view of the fact that the applicant was reinstated back in service it was to be deemed that he continued in service. Even prior to the trade testing in the year 1987 the applicant was to be deemed to be continuous in service and he was entitled to be placed at the due place in the seniority list to which he would be entitled had he not been thrown out of service in between Ram Karan and Ram Dhwaaj. The application is allowed. The respondents are directed to grant revised pay scale to the applicant prior to the year 1987 when he was trade tested taking him back in service continuously without any break and his seniority be restored. This will be done within a period of two months from the date of receipt of a copy of this judgment. In case the applicant's seniority is properly fixed an interpolation may be shown in the rules in the proper place. In case the applicant gets his seniority and higher pay scale, arrears also be paid to him ^{within next} ~~with~~ two months.


A.M;


V.C.

Allahabad Dated: 12.9.91

Shakeel/