

Reserved.

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

.....

Original Application No. 1485 of 1994.

this the 26/4 day of April 2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)
HON'BLE MR. S. BISWAS, MEMBER (A)

Hari Singh, S/o Sri Mahadeo.

2. Akhilesh Kumar, S/o Sri Ram Prakash

Both are working as Flagman under Permanent Way
Inspector (PQRS), N.R. Shikohabad.

Applicants.

By Advocate : Sri C.P. Gupta for Sri A.Kumar.

Versus.

Union of India through the General Manager, N.R. Baroda
House, New Delhi.

2. The Divisional Engineer (Track), Northern Railway,
DRM Office, Allahabad.

3. The Asstt. Engineer (Special), Northern Railway,
Aligarh.

4. The Permanent Way Inspector (PQRS), Northern Railway,
Shikohabad.

Respondents.

By Advocate : Sri L.M. Singh for Sri D.C. Saxena.

O R D E R.

MR. S. BISWAS, MEMBER (A)

By this O.A., under section 19 of the Administrative
Tribunals Act, 1985, the applicant has sought the following
reliefs:

i) to quash the impugned verbal orders dated 18.5.94
and 26.4.94 and further to direct the respondents to treat
the applicants as Flagman for all purposes till they are
promoted to the next higher post or to issue any other
proper directions.

2. The applicants are challenging their alleged shift

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to work in the gang respectively under S/Sri Atar Singh and Babu Ram, as Gangmen from the category of Flagmen, as per the impugned verbal orders of respondent nos. 3 & 4 dated 18.5.94 and 26.4.94. That the applicant no.1 was appointed as Casual gangman since 7.7.76 under PWI, Etawah, but allowed the scale of 1.6.85. (The applicant, however, did not disclose the scale which he was given).

3. The applicant no.1 further stated that he was posted as Flagman under respondent no.4 in 1982-83 when the PQRS work started. The applicant has now contested his shift from Flagman to Gangman stating that he further received Shuntman(Flagman) training from Subedarganj, his meritorious services were recognised as Flagman in the award certificate and he enjoyed the railway passes with his category shown as Flagman. Even in the pay-slip, his category was shown as Flagman.

4. The applicant no.2 was statedly appointed on 2.5.84 as Flagman under PWI (Spl-) Etawah and allowed the scale of CPC on 1.3.86. (We again observe here that the scale has not been disclosed by the applicant no.2). The applicant further contended that he too received training for Shuntman (Flagman) on 1.3.87 at Subedarganj, had under-went medical test, in A-3. While working under PWI(PQRS) Chunar, both applicants were shown as Flagman. The applicant no.2 ~~was~~ got privilege passes. His pay slips for the relevant period showed the category of the applicant as Flagman. He was allowed to work as Flagman upto 25.4.94 when both the applicants were shifted as per the impugned verbal orders (26.4.94 and 18.5.94) as Gangman illegally. Their representations dated 11.8.94 and 30.8.94 (wrongly mentioned in sub-para 4.14 as dated 11.8.89 and 30.8.89) were not allegedly considered.

5. The respondents have refuted the O.A. contending interalia that the applicants were posted in PQRS on temporary basis as the works were temporary in nature.

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This posting on work exigency does not confer any right to any worker to continue permanently in that category of work after the PQRS itself dissolved. Training is a related safety regulation and no such job training given for the safety of the workers, confers a permanency in that category of temporary and dissolveable job. The applicants are now working as Gangmen and the wages paid to them as per the rules for the works. The shift of workers (Gr. 'D') from one category to another in exigencies of works is not promotion. No such orders were passed, given or submitted as evidence of promotion. The respondents also contended that shifting of the applicants were made ~~to~~ under orders of respondents, who are authorised to give such shifting works on completion of PQRS. Both the applicants were initially Gangmen. Passing of any test in any of the categories is a job arrangement for doing the work better. It does not promise or confer any extra-ordinary right for promotion or retention after dis-solution of PQRS.

6. The applicants, the respondents mentioned, failed to cite any rules or written rules of promotion in support of ~~their~~ claim.

7. The applicants themselves admitted in para 4.16 of the O.A. that they appeard in the screening test for Flagman held on 21.7.94 long after they were posted as Gangmen on 26.4.94 and 18.5.94 by the impugned order and admittedly by them, the results were not declared. The respondents further averred that PQRS is not a permanent work set-up where the workers of any category could be retained. None of the Flagmen or Gangmen were promoted against any permanent vacancies there.

8. Heard the learned counsel for the parties on facts and law points.

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9. It is not the case of the applicant that they were recruited only as Flagman, which is also admittedly known as Shuntman. The applicant no.1 was admittedly engaged in 1976 as a Casual Gangman under PWI, but in the exigencies of PQRS work he was shifted to work as Flagman or Shuntman when he was statelily regularised and for the purpose of labour safety as it is warranted, he was given requisite job training. The applicant was given necessary facilities like passes, training showing ^{train in} ~~his~~ on the work designation. After perusing the records, we are convinced that this arrangement was all in work exigency and but for that additional temporary job available in PQRS, the applicant would not have been able to continue with his casual employment and get regularised on that status~~of~~ of continuity. The efforts of the respondents were positive.

10. We have examined the claim of the applicants that they were given shift duties from one category to another category illegally and under verbal order of persons or officers who were not authorised for changing of categories.

11. Admittedly, by both the applicants, the respondent nos. 3 & 4 had shifted them on the works and administrative exigency under berbal order, but they had no authority to do so. On the question of illegality involved in changing the category by an un-authorised officer, the applicants have cited in Annexure I a clarificatory circular no. 4767 No. 8477/38(EIV) dated 9.9.69. Having perused this circular, we find that the rules laid down in this circular is about authority to permit change of category on request cases only. We re-produce the same :

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"The Railway Board vide their letter no. E(NG)1166 TR 2/34 dated 1.2.68 circulated under this office letter no. 831-E/8-11 (EIV) dated 13.2.68 (S No. 421 have delegated powers of transferring III and IV staff from one post of another to Senior Scale and and Assistant Officers respectively (our emphasis

In this connection a doubt has been arisen that raised whether this delegation would automatically empower scale/Asstt. Officers to permit of Class III and Class IV staff from one category to another on request (our emphasis). ^{S.B}

12. It stands evidently clarified that in this circular as regards change of category in Group IV staff for works exigency only, an Assistant Officer would remain competent to make such change but for ^{any} change of category On Requests Divisional Supdt. would be competent to permit change of category of class IV personnel. We, therefore, do not agree with the interpretation of the applicants that the Asstt. Engineer (respondent no.3) or PWI of PQRS were not competent to make such change in the exigency of works or winding up of temporary PQRS works. Such changes are warranted for deployment and re-deployment of work force within Group IV duties only.

13. The applicants have not succeeded to make their case that they were promoted by any written or verbal order to any superior grade or category. Infact we have come across such work assignation within Group 'IV' like Keyman, Gangman Flagman, Gateman, Shuntman, Waterman and the like. The Railway recruitment rules do not recognise them as ^{in as much as} separate grades, ^a they fall within the same scale of pay. Their shifting from one category to another with job training is in the larger exigency of works, projects and deployment. It is not the case of the applicants that they were shifted from one substantive scale of pay to another scale of pay, causing monetary loss or any official degradation in the status of a class IVth employee. The applicants have themselves admitted (para 4.16) that they went through the Screening test for Flagman only on 21.7.94 after they were posted in the gang and the test results were yet to be out.

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14. We, therefore, find no merits in the application.
The same is dismissed. No costs.

S. B. S. C.
MEMBER (A)

GIRISH/-

Ramreddy
MEMBER (J)