

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
ALLAHABAD

Allahabad this the 7th day of January, 1997.

Coram : Hon'ble Mr. S. Das Gupta, Member-A
Hon'ble Mr. T. L. Verma, Member-J

Original Application No. 97 of 1994.

1. Yusuf Khan aged about 32 years, s/o.
Shri Yasin Khan R/o. 37, Imambars Prem Nagar,
Jhansi.
2. N. K. Nigam aged about 31 years, son of Sri
K.S.Nigam, R/o. Khati Baba Jhansi.
3. Genda Lal aged about 33 years, s/o.
Shri Brij Lal R/o. 59, Pratap Pura Nagra,
Jhansi
4. Rajan P.O. aged about 39 years, s/o.
late Shri Omman R/o. 25/34, Shantibhawan,
Issitola, Jhansi.
5. Ganesh Prasad aged about 36 years, son of Sri
Gaya Din Yadav, R/o. Khajur Bagh,
Nai patti, Jhansi.
6. Shahzad Khan aged about 31 years, s/o.
Shri Saini Khan, R/o. H.No. 22, Jiwanpura, Nagra, Jhansi.
7. Hukum Singh aged about 29 years, s/o.
Shri Chhotey Lal R/o. Hasari Gwaltoli, Jhansi.
8. Brij Lal aged about 35 years, s/o. Shri
Raghubir R/o. Vill & P.O. Birgawan, Jhansi.
9. Mohd. Yunus aged about 34 years,
Shri Babukhan R/o. Mewatipura, Jhansi.

Wlc.

10. Sabir Bux aged about 31 years, s/o.
Shri Shahadat Bux R/o. 185, Talpura,
Jhansi.

.....petitioners.
(THROUGH COUNSEL SRI R.K.NIGAM)

Versus

1. Union of India through Chairman, Rly,
Board, New Delhi.
2. General Manager, C.Rly, Bombay, V.T.
3. Chief Personnel Officer, C. Rly. Bombay, v.t.
4. Controller of Stores, Hd. Qrs. C.Rly.,
Bombay V.T.
5. Dy (C.O.S) C. Rly. Workshop, Jhansi.
Dy. Chief Controller of Store.

....Respondents

(THROUGH COUNSEL SRI PRASHANT MATHUR)

ORDER (Oral)

(By Hon. Mr. S. Das Gupta, Member-A)

This application has been filed jointly by ten applicants seeking a direction to the respondents to declare the result of the screening test held on 4.12.1992 and to give effect to the same retrospectively ~~with~~ ^{for} the purpose of seniority and other civil rights which the applicants have been enjoying all through. A further direction sought is for giving effect to the panel of Clerical cadre for which Viva-Voce was conducted on 28.3.1992.

2. According to the applicants, all of them were initially recruited as Casual Khalasis in various places

and subsequently absorbed on transfer to the Store Department on various dates between 1987 and 1992. They have annexed copies of the orders in support of the facts that they were absorbed in the Stores Department on various dates, as temporary Khalasis/Peons. They have been enjoying all the facilities like Provident Fund, G.I.S., E.C.C., Loans, Pass, P.T.O. etc. which are granted to regular employees. It is further stated that some of the applicants had also appeared in various selection tests for Clerical Grade II and Material Clerks. In some cases the panels have been drawn whereas in other cases the results have not been declared.

3. It has been further averred in the O.A. that in the Store Department, a screening took place in February/March, 1988 but the applicant Nos. 1, 3, 4, 6 and 9 although physically present in the Store Department at that time, were not called for the screening. Subsequently on 12.9.1990 another screening took place and, ^{though} all the applicants except applicant No.10 were available at that point of time, none of them ~~were~~ called for screening. However, they were called for screening on 4.12.1992 but the result of the screening was never declared.

4. The respondents have filed a counter-affidavit in which it has been stated that the applicants were granted certain status and benefits without being screened by duly constituted Committee. The seniority was also assigned to the applicants inadvertently without the ^{advice} ~~notice~~ of the competent authority and

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therefore, their names were being ^{borne} drawn on the seniority list as on 17.10.1991, a copy of which has been annexed to the O.A. The further case of the respondents is that the applicants were not entitled to be screened or granted the various privileges ignoring the claim of the seniors.

5. We heard the learned counsel for both the parties and perused the record carefully.

6. From the various annexures to the O.A. as well as copy of the seniority list of Khalasis as on 17.10.1991 in the Stores Department, Jhansi it is clear that the applicants have all along been treated as permanently absorbed in the Stores Department from the date they were transferred to the ~~the~~ Department and had been granted all the privileges which the regular employees are entitled to. The respondents' case is that they have been given such privileges ignoring the claim of the seniors. Averment in this regard is wholly bald and no details have been given to who are the seniors whose claims have been ignored. The manner in which the respondents ^{are} ~~in~~ all along acting with regard to present applicants, would act as an estoppel in the absence of any valid reasons to take away the benefits already granted and continued for over a period of time. The reasons indicated in the counter-affidavit do not appear to us as wholly satisfactory so as to take away the benefits granted to the applicants without giving them an opportunity to show cause. So far as the

W.C.

question of giving effect to the panel for the post of Clerks Grade II is concerned, we are of the view that such relief ~~does~~ not flow from the main relief sought for. We therefore, ^{leave} ~~need~~ the question open.

7. In view of the foregoing, we dispose of this application with a direction to the respondents to declare the result of the screening held on 4.12.1992 within a period of one month from the date of communication of this order and in case the applicants have qualified in the screening test, they will ~~continued~~ to be ^{regar} regarded as regularised Khadasis/Peons from the date they were initially absorbed in the Stores Department. We however, provide that in case the claim of any senior has been ignored, such senior persons may also be subjected to screening test and in case they ~~passed~~ the screening test, they may be given notional seniority over the applicants. Parties shall bear their own costs.


Member-J


Member-A

(pandey)