

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF JANUARY, 2002

Original Application No.941 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

1. Adil Mation, son of Asgar Ali  
Helper Khalasi, II shade
2. Om Prakash Son of  
Sri Chaturi Prasad Vishwakarma
3. Mukhtyar Singh Son of  
Sri Tulsi Ram
4. Wake Ahamad son of Mohammed Ahmed
5. Om Prakash son of Shanker Lal
6. Mansha Ram, son of  
Sri Kunju Behari
7. Mohammed Hanif, son of  
Mohammed Umar.
8. Rajendra Bahadur Singh  
Son of Sri Ram Singh
9. Lal Bahadur son of  
Sri Sarju Prasad
10. Shiv Karan Singh son of  
Sri Vikram singh
11. Shafiq Ul Alam son of  
Sri Hafizul Haque
12. Ram Kishan son of  
Sri Bishe Shanker
13. Lalta Prasad Maurya  
Son of Sri Ram lal Maurya
14. Rajesh Kumar, son of  
Sri Ram Chander
15. Surya Narain, son of  
Sri Kanhaiya Lal Yadav
16. Dinesh Kumar, son of  
Sri R.S.Srivastava
17. Baleshwar Mistry, son of  
Sri Soma Mistry
18. Triveni Prasad Tewari,  
Son of Sri Kedar Nath
19. Vijai Pal Sharma, son of  
Sri Dhani Ram.

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20. Shiv Kumar Singh, son of  
Shri Sadhu Saran
21. Rakesh Kumar, son of  
Shri Sangam Lal

All are working as Helper Khalasis  
Electric Shade, T.M.Shop  
Northern Railway, Kanpur.

.... Applicants

(By Adv: Shri M.K.Upadhyaya)

Versus

1. Union of India through the Secretary  
Ministry of Railways,  
New Delhi.
2. The Divisional Railway manager,  
Northern Railway, Allahabad.
3. The Senior Divisional Electrical  
Engineer, Electric T.M. Workshop  
Northern Railway Kanpur.

.... Respondents

(By Adv: Shri D.C.Saxena)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this application u/s 19 of A.T.Act 1985 applicants have prayed for a direction to the respondents to promote the applicants in accordance with the provisions of 159(iii) of Indian Railway Establishment Manual. They have also prayed for a direction to restrain the respondents from filling the posts without considering the promotion of the applicants.

The facts of the case are that applicants are serving as Helper Khalasis(Electric). Their grievance is that after completing three years as Helper Khalasis they became entitled for consideration of promotion to the post of Fitter Grade-III(Group 'c'). It is also submitted that in 1988, 1990, 1991, 1992 the respondents promoted several Helper Khalasis as Electric Fitter Grade-III without considering the applicants claim. In short, the

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submission is that the Helper Khalasis who were junior to the applicants were promoted and the applicants were not considered for appointment. In paragraph 9 of the counter reply respondents have admitted this position. Para 9 reads as under:-

"That in reply to the averments made in para 4(iv) of the petition it is stated that the vacancies for the post of skilled fitters grade Rs950-1500 were calculated from time to time. The staff promoted against 50% by virtue of seniority/suitability was promoted. 12 staff during 1988, 41 staff during 1990 and 15 during 1991 and 24 staff during 1993. The claim of the petitioners is therefore baseless. The total staff promoted against 50% quota in 1992 as is evident from Annexures C.A. II to C.A.II(J)."

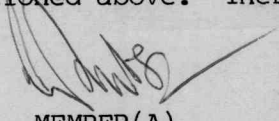
✓ From the above, it is clear that promotions were done under 50% quota from time to time but the claim of the applicants were not considered. Being aggrieved for <sup>being aggrieved</sup> many times they filed OA in this Tribunal on 23.6.1994 as another selection was going to be held on 26.6.1994. The matter was taken up on 24.6.1994 and this Tribunal after considering the whole matter in detail passed the interim order. The operative part of the interim order is being quoted below:-

"..... the selection test for the promotional post is scheduled to be held on 26.6.94, so considering the prima facie case of the applicants we direct the respondents to allow the applicants to appear in the said selection test provisionally subject to the further order passed in the case..."



The learned counsel for the respondents has submitted that some of the applicants in this OA appeared in the selection test but some have not appeared. It is also submitted that the result of this test though about eight years have passed <sup>they are</sup> ~~have~~ not yet been declared. The reason as to why the result could not be declared is not available on record. In view of the admitted position that promotions were made in 1988, 1990, 1991 and 1993 without considering the claim of the applicants <sup>they are entitled to relief</sup> ~~s/~~. There is no averment that applicants were given chance and they did not appear in selection test. The serious question for determination in this OA is how to compensate the applicants. Only 21 applicants have approached us against the injustice occasioned to them. The seniority list shows that there are hundreds of such Helper Khalasi, many more may be such who have not yet approached this Tribunal. Considering the degree of injustice occasioned to such employees many times we are of the view that injustice already caused may be rectified by directing the respondents no.2 and 3 to consider all such Helper Khalasis including applicants who have been by-passed in the matter of promotion to Electric Fitter Grade-III, <sup>to hold</sup> ~~to hold~~ a special selection with regard to such persons within a period of four months and restore their position and promote them on notional basis from the date their immediate junior was promoted. We would like to make it clear at this place that this direction will not apply to those who have appeared and failed in any of the selection and also those who were not qualified under rules prevalent at that time.

The OA is accordingly disposed of finally on the terms and conditions mentioned above. There will be no order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated Jan: 24th, 2002