

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

OA/415/1993 With C.P./11 of 1998

Date of Decision : ⁰⁵ .01.2001

Shri. Charmu Karma : Petitioner (s)

Mr. K. K. Shah : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondents [s]

Mr. N. Shevde : Advocate for the Respondent [s]

CORAM :

THE HON'BLE MR. A.S. SANGHAVI : **MEMBER (J)**

THE HON'BLE MR. G.C. SRIVASTAVA : **MEMBER (A)**

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment? ↗
2. To be referred to the Reporter or not? ↗
3. Whether their Lordships wish to see the fair copy of the judgment? ↗
4. Whether it needs to be circulated to other Benches of the Tribunal? ↗

Shri. Charmu Karna,
Permanent Way Mate,
Working under Assistant Engineer,
W. Rly., Mehsana.

= Applicant =

Advocate : Mr. K. K. Shah

Versus

1. Union of India,
Notice to be served through the
General Manager, W. Rly.,
Church gate, Bombay - 400 020.
2. Assistant Engineer,
Office of Assistant Engineer,
W. Rly., Mehsana.
3. Permanent Way Inspector,
W. Rly., Chanasma (CSMA).

= Respondents =

Advocate : Mr. N. S. Shevde

**JUDGMENT In
O.A 415 of 1993
With
C.P. 11 of 1998**

Date : 05/01/2001

Per Hon'ble Shri. A. S. Sanghavi : Member (J).

The applicant who is working as a Permanent Way Mate in the scale of Rs.950-1500/- is aggrieved by the action of the respondents in regularising him in the class-IV and placing him in the scale of Rs.775-1025/-. He has prayed that the respondents may be directed to continue him in the scale of Rs.950-1500/- and permit him to work as a Permanent Way Mate with all consequential benefits. According to the applicant he was appointed as casual labour in 1984 and was given promotion

to the post of Permanent Way Mate and has been given temporary status w.e.f. 7.7.1984. He had been working as a Permanent Way Mate since then and in February 1991 his pay was Rs.1030/- in the scale of Rs.950-1500/-. The applicant has alleged that the respondents have now reverted him to the post of Gangman without assigning any reason and without giving him any opportunity of being heard and he is sought to be regularised in class-IV post of Gangman. He has contended that the action of the respondents to reduce the salary is clearly arbitrary and mala fide action and deserves to be set aside.

2. The respondents on the other hand in their reply have contended that the applicant was appointed as Project Casual labourer in the year 1984 and was given promotion as casual labourer Mate by the Construction department. However, he was not holding any substantive position and was never regularised in Group 'C' post. He was screened by the screening committee on 31.12.1987 and was found fit for regularisation in group 'D' post and accordingly was regularised as Gangman in the scale of Rs.775-1025/- vide order dated 14.6.1991. They have also contended that there is no direct recruitment to the post of Permanent Way Mate and therefore the applicant cannot be considered as a regular Permanent Way Mate. He can only be regularised as Gangman in the scale of Rs.775-1025/-. The post of the Permanent Way Mate in open line is a selection post and the regular key man working in that unit is eligible to appear in the selection of Permanent Way Mate. According to them the

applicant should first accept the posting as a regular Gangman to become eligible for further promotion. They have prayed that the O.A be dismissed with costs.

3. We have heard the learned advocate of both the parties at length and have gone through the various decisions on this point.

4. The question arising in this O.A had been a subject matter of a decision in the case of Aslam Khan Vs. UOI in O.A No. 57 of 1996 decided on 30th October 2000 by the Full Bench of this Tribunal at Jaipur and the Full Bench while answering the reference as to whether the person directly engaged on Group 'C' post (Promotional post) on casual basis and subsequently, acquired temporary status, would be entitled to be regularised on group 'C' post directly or whether such person requires to be regularised in the feeding cadre in the group 'D' post by providing pay protection of group 'C' post has held that a person directly engaged on group 'C' post (Promotional post) on casual basis and has been subsequently granted temporary status would not be entitled to be regularised on group 'C' post directly but would be liable to be regularised in the feeder cadre in group 'D' post only. His pay which he drew in the group 'C' post, will however be liable to be protected. The Full Bench was dealing with the similar case of the Gangmate and after considering decisions of the Supreme Court in the case of UOI Vs. Motilal (Supra) as well as Ram Kumar Vs. UOI etc, has laid down that a person directly engaged on group 'C' post on casual basis and has been

subsequently granted temporary status would not be entitled to be regularised on group 'C' post directly but would be liable to be regularised in the feeder cadre in group 'D' post only. His pay which he drew in the group 'C' post will however be liable to be protected. ✓

5. Subsequent to this full Bench decision, in a recent decision in the case of Valji Nathabhai Vs. UOI in O.A No. 763 of 94 decided on 22.12.2000, we have held that the respondents cannot be directed to regularise the applicant in group 'C' post and the action of the respondents in regularising him in the feeder cadre of group 'D' cannot be quashed or set aside. While disposing of the O.A we have given the following directions :-

"However, the respondents are not entitled to reduce his salary or scale of pay and the applicant would be entitled to the protection of his salary. The applicant however will be eligible for the benefit of para 2007 (iii) of the IREM 1990 and the respondents are directed to consider him for regularisation in group 'C' post of Driver if the vacancy to the extent of 25% of the vacancies reserved for departmental promotion from the un-skilled and semi-skilled categories as envisaged, is available and on his passing the requisite trade test. We also direct the respondents to allow him to continue to work as a Permanent Way Mate and to protect his pay in the scale of Rs.950-1500/- though he might be regularised in group 'D'. If he succeeds in the trade test as directed above, he may be absorbed in regular vacancy of group 'C' as laid down in para 2007 (iii) of the IREM. He may be permitted to appear in the trade test within three months of the receipt of the copy of this order. With this direction the O.A stands disposed of. No order as to costs."

6. We find that similar directions are required to be given in this O.A also and therefore while concluding we pass the following order :-

"The prayer of the applicant for regularisation in group 'C' is rejected. However, the respondents are not entitled to reduce the salary or scale of pay of applicant and the applicant would be entitled to the protection of his salary. The applicant however will be eligible for the benefit of para 2007 (iii) of the IREM 1990 and the respondents are directed to consider him for regularisation in group 'C' post if the vacancy to the extent of 25% of the vacancies reserved for departmental promotion from the un-skilled and semi-skilled categories as envisaged, is available and on his passing the requisite trade test. We also direct the respondents to allow him to continue to work as a Permanent Way Mate and to protect his pay in the scale of Rs.950-1500/- though he might be regularised in group 'D'. If he succeeds in the trade test as directed above, he may be absorbed in regular vacancy of group 'C' as laid down in para 2007 (iii) of the IREM. He may be permitted to appear in the trade test within three months of the receipt of the copy of this order. With this direction the O.A stands disposed of. No order as to costs."

G.C. Srivastava
(G.C. Srivastava)
Member (A)

A. Sanghavi
(A. S. Sanghavi)
Member (J)

Mb

FORM NO. 21
(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH
OA/TA/RA/CPT 415/93 of 200

Shri Chandra Karmi

APPLICANT(S)

VERSUS

U.A.T. 2

RESPONDENT(S)

I N D E X -----S H E E T

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	<u>Sir. Reg.</u>	<u>34-47.</u>
	<u>True copy of all or part of page</u>	
	<u>1st part</u>	<u>36 page</u>

Certified that the file is complete in all aspects.

Dealing Hand

Signature of S.O. (R)

Dealing Hand

Signature of Dealing Hand.