

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA

O.A./773/1996

Date of decision : This the 28th day of Jan. 2005

C O R A M

Hon'ble Mr. D.C.Verma, Vice Chairman(J)

Hon'ble Mr. G.R.Patwardhan, Member(A)

1. D. Nageswara Rao,
residing at: 27 M
Alipore Road, Calcutta-700027
2. B. Parameswara Rao,
Add.: 27 N
Alipore Road, Calcutta-700027.
3. K. Balaji,
add.: 12, Kali Temple Road,
Calcutta : 700 026.
4. B. Anandkumar,
Add.: 128, Hazra Road,
Calcutta 700026.

All are working for gain as
Khalasi in T&S/ELS/VSKP, S.E.Rly.,
under the control of the Chief -
Electrical Engineer, S.B. Rly.,
Garden Reach, Calcutta-700043.

... APPLICANTS

ADVOCATE : 

V/s.

1. Uniof of India through
The General Manager, S.E.Rly,
Garden Reach, Calcutta 700 043,
2. General Manager, S.E.Rly.,
Garden Reach, Calcutta 700 043.
3. Chief Personnel Officer, S.E.Rly.,
Garden Reach, Calcutta 700 043.
4. Chief Signal & Telecommunication -
Engineer(Construction), S.E. Rly.,
Garden Reach, Calcutta 700 043.RESPONDENTS

ADVOCATE : Mr. S. Chowdhry

O R D E R
(Per D.C.Verma)

The four applicants of the present O.A. have prayed
for setting aside the order dated 9.9.92, 24.2.93 & 28.4.93
by which they have been reverted from Gr.'C' to Gr.'D'
post. It is also prayed that the case of the applicants
be directed to be considered for giving benefits attached
to the Gr.'C' post by absorbing the applicants against
regular vacancy in Gr.'C' post.

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2. The facts, in brief,^{are} that the applicants were initially engaged as casual workers on daily rated basis, but subsequently they were absorbed in a regular Gr.'D' post in Open Line in view of the options given by the applicants. Subsequently juniors to the applicants were screened against 25% vacancies fallen under Gr.C category. The applicants are aggrieved by such action of the respondents and have approached this Tribunal.

3. The respondents' case is that the applicants were casual workers and the department in the light of the Apex Court decision took up steps to absorb the casual workers of Construction Organisation in open line against Gr.-D vacancies. Consequent thereto options were invited. The applicants gave options for their regular absorption against Gr.-D vacancy in Waltair division. The applicants after medical examination were screened and absorbed against Gr.D vacancy in the Waltair division. The question of their reversion from Gr.C post to Gr. D post does not arise. The persons who were eligible for consideration in 1996 against 25% quota of skilled Artison as per thier qualification were screened.. As the applicants were already regular in Gr.D vacancy as per their eligibility in 1993, question of their seniority or juniority with those ~~who~~ were considered under 25% quota, does not arise.

4. The applicants were earlier represented by shri ⁵6.K. Ghosh, Advocate. After the demise of shri Ghosh, registered notices were issued to the applicant to either appear in person or to engage some other counsel to argue on their behalf. Instead of the registered notices, none appeared for the applicants, consequently the case has been taken up for decision on merit.

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5. Counsel for the respondents has been heard on merit and pleadings on record have been perused.

6. Pleadings show that the applicants were screened as per their options for absorption in Gr.-D posts under Waltair division. The applicants were absorbed accordingly in the year 1993. At a subsequent stage in 1996, against 25% of the vacancies reserved for departmental promotees from un-skilled and semi-skilled category, the casual labourers were trade tested. The question of seniority or juniority would not arise in 1996 as the applicants were already absorbed against Gr.-D vacancy Waltair division in the year 1993. If the applicants were not willing to get absorbed in Gr.D vacancy in Waltair division, it was open to them, not to give any option for their absorption. Once the applicants opted for and were accordingly absorbed, they can not withdraw their option subsequently for a better prospects which occurred several years after. It is not the case of the applicants that in 1993 itself vacancy under 25% quota was available where juniors were considered leaving the applicants. After the applicants were absorbed in 1993 in Gr.D vacancy consideration under 25% quota for Gr.C vacancy occurred in 1996. So if the applicants in 1993 decided to get absorbed against Gr.-D vacancy instead to suffer uncertainty of continuing on casual basis till vacancy under 25% quota was to arise it was the applicants' ~~XXXX~~ own decision, and absorption in Gr.-D as per option can not be treated as reversion from Gr.-C to Gr-D job. In view of this the applicants' claim has no merit.

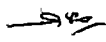
7. The other point raised in the petition is that the applicants have been working on Gr.C post and due to their absorption against Gr.D post, the applicants have been put to financial loss. If that be so, ~~the applicants~~

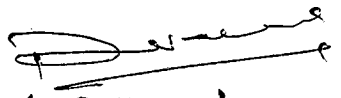
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in view of Full Bench decision of this Tribunal in the case of Aslam Khan versus U. O. I. & Ors. reported in ATJ 2001(2) P.1 even if the absorption is made to Gr. D post, such absorption would not be loss to the absorbed employees and protection of pay was to be provided by the respondents.

6. In view of the above Full Bench decision, in case any of the applicants' pay got reduced due to their absorption in Gr.D post, the respondents have to protect their pay. From the pleadings it comes out that protection of pay has not been provided by the respondents.

7. In view of the above, the OA is partly allowed. The relief with regard to so called reversion from Gr.C to Gr.D post and against non-consideration against Gr.C post, is rejected. The respondents are, however, directed to examine the case of each applicants separately with regard to pay they were drawing at the time of their absorption on Gr.D post in Waltair division. In case it is found that the applicants were drawing higher pay, pay protection shall be provided. This exercise shall be done within a period of three months from the date of receipt of a copy of this order. The O.A. stands decided accordingly. Costs easy.


(G.R. Patwardhan)
Member (A)


(D.C. Verma)
Vice Chairman (J)

CMJ/