

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CALCUTTA BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 1075/1996

Date of order: 24-02-2005

CORAM:

HON'BLE MR. MUKESH KUMAR GUPTA, JUDICIAL MEMBER
HON'BLE MR. M. K. MISRA, ADMINISTRATIVE MEMBER

Shri Trilochan Mahanta, son of Late Rakhal Ch. Mahanta, aged about 45 years, working as Khalasi under S.I., Balasore, S.E. Rly., Orissa, residing at Vill. & P.O. Ambageria, District Mayurbhanj, Orissa.

....Applicant.

None is present for the applicant.

V E R S U S

1. Union of India service through the Generl Manaer, S.E. Rly., Garden Reach, Calcutta – 43.
2. Sr. Divisional Personnel Officer, S.E. Rly., Kharagpur.
3. The D.S.T.E. S.E. Rly., Kharagpur.
4. The Signal Inspector, Balasore, S.E. Rly., Orissa.
5. Banamali Mahato, Khalasi helper under SI (SPL), S.E. Rly. KGP.
6. Jagabandhu Paul, Khalasi Helper under SI/Kolaghata, S.E. Rly.

.....Respondents

Mr. S. Choudhury, counsel for respondents.

O R D E R
:PER MR. M.K. MISRA, MEMBER (A):

Shri Trilochan Mahanta, the applicant, has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985. He has prayed for the following relief:

"i) Declaration that the applicant is entitled to be regularised in service in the post of Khalasi from 16.2.1983 or at least from the date the respondents Nos. 5 & 6 were regularised in service.

ii) An order do issue directing the respondents to give the benefit of the regularisation to the applicant in the post of Khalasi Helper w.e.f. the date the respondents Nos. 5 & 6 were regularised in service, and thereafter to pass an order for promotion of the applicant in the post of Khalasi Helper w.e.f. the date the above-named respondents were promoted."

2. The brief facts of the case are that the applicant was initially appointed as C.P.C. Gangman on 07.06.1970 under the PWI, Balasore, S.E. Rly., Orissa. Subsequently, on the basis of screening test, he was posted as substitute Khalasi under S.I., Kharagpur. W.E. Rly., vide letter dated 16.02.1983. Later on, another screening test was held and the applicant was given the benefit of regularisation w.e.f. 23.03.1992. The claim of the applicant is that he should have been regularised when the first screening for the post of Khalasi was held. The respondent No. 5 and 6 who were similarly circumstanced candidates were given the benefit of regularisation from the date of their posting as Gangman. The applicant also submitted that his juniors were regularised in the year 1984 in the post of Khalasi and he should also be given the benefit of promotion in the post of Khalasi Helper with effect from the date his juniors were promoted.

3. The respondents, in their reply to the Original Application, submitted that the applicant was appointed as CPC Gangman in the Engg. Department at Rupsa. Later on after being declared fit in the medical examination on 1/3.02.1983 he has been posted as Substitute Khalasi under Signal Inspector, Balasore

and working at Rupsa. He was again screened and empanelled as per office memo dated 19.09.1991 for regular absorption. The respondents further submitted that as per Rule 2006 of IREM Vol-II (Revised Edition, 1990), "Absorption of Casual Labour in regular Group 'D' Employment may be considered in accordance with instruction issued by the Railway Board from time to time, such absorption is however, not automatic but is subject inter-alia to availability of vacancies and suitability and eligibility of individual casual labour and rules regarding seniority unit method of absorption etc. decided by the Railway Administration." So it is wrong to contend by the applicant that he was screened for the post of Khalasi vide order dated 29.11.1982. As per terms in the S&T Department, he was screened and empanelled vide Merit Order (1) of the Panel published under this office order dated 19.09.1991 for regular absorption. The respondents further submitted that the applicant was considered as Substitute Khalasi and was not posted or engaged against regular Class-IV vacancies. Although his name appeared against Sl. No. 8 of the list of 35 candidates but since he did not annex any document in support of his claim, the same was denied by the respondent and was not regularised w.e.f. 1984.

4. We have heard learned counsel for the parties and also perused the records. It is an admitted fact that the applicant

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was engaged as a Substitute Khalasi by the Railway authorities, therefore, substitutes has no automatic right for regularisation because the date of appointment of casual labour/substitutes are not the criteria of regularisation. The regularisation is done only after the screening test and fitness in medical examination and availability of clear vacancies and suitability and eligibility of the substitute/casual labour. In the present case, the screening test was done in the year 1991, hence he cannot claim regularisation with retrospective date, and therefore, he is not entitled for any consequential benefits.

5. In the light of the above discussion, the Original Application has no merit and substance, hence, it is dismissed but with no order as to costs.



M.K. Misra)
Administrative Member



(Mukesh Kumar Gupta)
Judicial Member

Kumawat