

In the Central Administrative Tribunal
Calcutta Bench

OA 501/96

13-6-03

Present : Hon'ble Mr.S.Biswas, Member(A)
Hon'ble Smt.Shyama Dogra, Member(J)

Some Nath Dhanuk & another

-Vs-

Mint

For the applicants : Mr.P.K.Munshi

For the respondents : Ms U. Sanyal

ORDER

Smt .Shyama Dogra, Member(J) :

There are two applicants in this OA who have made prayer to allow them to join to pursue the matter because of similar cause of action. The prayer is allowed accordingly.

2. This OA has been preferred by the applicants with a prayer to count their seniority from the date of their entry in the Industrial Establishment as Khalasi-Sweeper and their consideration therefor to the post of Asstt. Class-IV on the basis of the seniority along with consequential benefits.

3. Briefly the fact as set out in the application are that the applicants joined service as Group-D (classified Sweeper) on 24-1-80 and 18-7-81 respectively. Both the applicants belonged to Scheduled Caste community. In the year 1986 while exercising options, the applicants were transferred to the post of Khalasi-Sweeper in the ~~the~~^{new} Industrial Establishment with effect from 19-5-86. In view of this, their seniority among seven Khalasi-Sweepers were maintained at 81.3 and 5 respectively vide Annexure-B.

4. Both the applicants were transferred to the post of Mazdoor in the same scale of pay of Rs750-940/- under the Central Pool of the same Industrial Establishment w.e.f. 1-7-92. However, they were allotted new Token Nos in place of old Token Nos, which had affected their seniority. A copy of the said order has been annexed as Annexure-C. Feeling aggrieved by the said order, the applicants made representation to the concerned respondents and submitted there that all other persons juniors to them in non-

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industrial category have been placed above them, which adversely affected their seniority position. All those persons were appointed mostly after the appointments of the applicants. The copies of those representations had been annexed as Annexure-D.

5. The applicants have also made reference to one corrigendum being issued by the respondents. While rectifying, the similar kind of mistake in the case of Shri P.Turia, Khalasi-Sweeper and prayed that the applicants case also be decided in the light of the said corrigendum. A copy of the said corrigendum is enclosed as Annexure-E.

6. The further submissions of the applicants are that instead of deciding the representations, the respondents have further issued seniority list, thereby showing the applicants junior to the other persons, who have joined the service later on and that those persons are non-Industrial Junior Canteen employees. The said impugned seniority list has been annexed as Annexure-F, being issued on 4-11-95.

7. On receipt of this Seniority List, the applicants have made representations for redressal of their grievances, but till date nothing has been done by the respondents and which has deprived of the applicants seniority about 7 years within the Industrial Establishments and hence prayed for their actual seniority position.

8. The respondents have filed written statement and submitted that the applicants were transferred to the post of Mazdoor with effect from 1-7-92 along with other Group-D staff (classified cadre) on their own request and after getting the relevant undertaking in the prescribed form which is duly signed by them. It is further stated that the Sweepers are categorised as Group 'D' in the classified establishment and when they are transferred with the same job to the shop floors (inner security areas) they are termed as Khalasi Sweepers. The system has been introduced for monetary benefit for them by way of incentive

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payment at par with Industrial Workers. The basis of determining the inter-se seniority of the above applicants being converted to Mazdoor along with others will be the date of transfer from Sweeper to Khalasi Sweeper and applicants exercised their options and have given undertaking to the effect that services of Group-D cadre or that of Khalasi-Sweeper will not be counted in the post of Mazdoor in workman cadre for the purpose of seniority. Therefore the application is not maintainable in view of their undertaking to the said effect.

9. The applicants have filed rejoinder and reiterated their claim as set out in the OA. However, taking into consideration that the respondents have rectified the seniority of one P.Turia by issue of one corrigendum, though the reasons therefor have not been mentioned in the said corrigendum. However, we are of the considered opinion that in the interest of justice it is necessary that the representations of the applicants need consideration by the respondents which are still pending with them for quite a long time.

10. In view of this, the respondents are directed to decide the representations of the applicants in the light of the said corrigendum, Annexure-E within 3 months from the date of receipt/production of the order and if it is found that the grounds of rectification of the said seniority list is similar to the grounds being taken by the applicants, in that eventuality, the respondents are directed to pass proper reasoned and speaking order in accordance with law. It is made clear that we have given these observations without going into the merits of the case. Further, while disposing of the representations of the applicants, the respondents are also directed to give personal hearing to the applicants who are at liberty to submit their claims by filing additional documents if necessity arises.

11. In terms of these observations and directions, the OA stands disposed of. No costs.

Shyama Dogra
13.6.03
(Smt. Shyama Dogra)
Member (J)

S.B.
(S.Biswas)
Member (A)