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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A. No. : 34/1997

Date of Order : 22.9.1999

Surjeet Singh S/o Shri Mahendra Singh, aged about 44 years
Mason Khallasi, under Assistant Engineer II, Hanumangarh
Junction, Resident of Ward No. 25, Near Hanuman Temple,
Behind Post Office, Hanumangarh Junction.

..Applicant..

Versus

1. The Union of India, through
The General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager, Northern
Railway, Bikaner, Division, Bikaner.
3. Divisional Superintendent Engineer, II
Northern Railway, Bikaner Division, Bikaner.
4. Divisional Personnel Officer,
Northern Railway Bikaner Division,
Bikaner.
5. Assistant Engineer, Northern Railway,
Bikaner Division, Sinsa.
6. Assistant Engineer II, Northern Railway
Bikaner Division, Hanumangarh Junction.

.. Respondents.

Mr. Y.K. Sharma, counsel for the applicant.

Mr. V.D. Vyas, counsel for the respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. GOPAL SINGH :

Applicant, Surjeet Singh, has filed this application
under section 19 of the Administrative Tribunals Act, 1985,
praying for a direction to the respondents to take the
Gopal Singh

applicant on duty with all consequential benefits and not to reduce the pay of the applicant what he was drawing as Mason. Applicant's case is that he was first engaged on 09.4.1973 as a ~~Casual~~ Labour Mason under Inspector of Works, Hanumangarh Junction and later he was given the temporary status with effect from 24.7.1984 in the Construction Organisation in the category of Mason Grade 260-400 / 950-1500. The applicant had been working as Mason right from his initial appointment and the post of Mason falls in the category 'C'. Consequent upon screening in February, 1996, the applicant was recommended for the post of Khalasi, Safaiwala or Gangman. The applicant was accordingly spared from construction organisation and was directed to ~~report~~ of to the respondent No. 5 for further posting. The applicant was posted on the post of Gangman Grade 775-1025/- in Gang No. 27 under Permanent Way Inspector I, Hissar vide order dated 20.10.1996. At the time of his appointment as Gangman, the applicant was drawing basic pay of Rs. 1200 + Rs. 20/- (Special Increment) and on his appointment as Gangman in the scale of Rs. 775-1025/- his pay was reduced substantially. On his request, the applicant was posted as Mason Khalasi under respondent No. 6 vide letter dated 5.11.1996, Annexure A/4. However, respondent No. 6 did not take the applicant on duty and returned him to respondent No. 5 with an observation that his first appointment after screening is at Sirsa and, therefore, he be taken on duty first at Sirsa and, then, spare him for Hanumangarh Junction. The applicant was spared ~~by~~ respondent No. 5 vide his letter dated 11.11.1996, Annexure

Copy attached

A/7 with directions to report for duty to the Assistant Engineer, Hanumangarh, respondent No. 6. Respondent No. 6, however, did not take him on duty. Feeling aggrieved, the applicant has approached this Tribunal.

2. By way of an Interim order dated 3.4.1997, respondents were directed to take the applicant on duty on the post mentioned therein (Mason Khalasi). The applicant shall report to the Divisional Superintendent Engineer II, Northern Railway, Bikaner within one week. The Divisional Superintendent Engineer II shall then ensure that the applicant is taken on duty at the appropriate station.

3. Notices were issued to the respondents and, they have filed their reply. In their reply, the respondents have not contested the factual position of the case and have stated that the applicant was drawing pay of Rs. 1200 + Rs. 20/- (special increment) while working as Mason Casual Labour but the screening committee found him fit ~~for~~ only for the post of only Gangman/Khalasi/Safai-wala. In terms of interim orders of the Tribunal, the applicant joined as Khalasi on 15.4.1997. The respondents have however denied protection of pay of the applicant on his appointment as Gangman.

4. For better appreciation of the issues involved, we had directed the counsel for the respondents to produce before us, the statement of pay drawn by the applicant and it is seen from the documents produced by the respondents that the applicant has been drawing salary in the Group 'C'

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scale of Rs. 260-400 / 950-1500 / 3050-4590 with effect from 22.7.1984. Thus the applicant has been drawing his salary in the Group 'C' scale with effect from the date he was conferred with the temporary status. The learned counsel for the applicant has cited the judgement of Hon'ble the Supreme Court in Ram Kumar & Ors. Versus Union of India & Ors. reported in 1996 (1) SLJ, 116. In this judgement, it has been held by Hon'ble the Supreme Court as under :-

On commitment given by counsel for respondents directed-

- (A) Railway Casual Labourers working in 'C' category may be screened and regularised after screening in 'D' category but their pay and allowances be protected upto their promotion in 'C' category.
- (B) Railway Casual Labourers Working in 'C' category for five years be screened in 'C' category and regularised.
- (C) Railway Casual Labourers attaining temporary status entitled for pensionary benefits for orders issued by Railway Board be given that benefit.

The relevant portion of the judgement is produced below :-

"Heard learned counsel for the parties. Mr. Goburdhan does not dispute the statement of Mr. Sibal, counsel for the respondent that out of 890 people, 504 have been adjusted against posts now created and 488 out of those 504 have been regularised. It is also brought to our notice that the widow of one of the petitioners has already been offered a job.

Mr. Goburdhan seems to be interest in about 12 persons who have not been regularised. They seem to be skilled workers at present working in Class III posts. Since regularisation on the basis of our orders have to be only in Class IV posts, Mr. Sibal, on instruction states that arrangement in respect of them is that though they are regularised in Class IV posts, they would carry the present pay they are drawing in Class III posts by protection until they are regularised in Class III posts following the Rules and instructions.

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Mr. Goburdhan relying upon the Board's instructions issued on 20th January, 1985, says that these people have already worked for more than five years and have become entitled for regularisation in Class III posts. If that be so, we call upon the Railway administration to give effect to the Board instructions referred to above and consider the claim of the 12 persons named below for regularisation as against Class III posts subject to their satisfying the requirements laid down in the Board instructions."

In terms of the above order, the applicant should have been screened for a Group 'C' post. However, since the applicant has been screened for a Group 'D' post ^{and} has been appointed as such, his pay what he was drawing as Mason should be protected.

5. In the light of above discussion, we allow this ~~order~~ with the direction that on his appointment as Gangman, after screening, the pay of the applicant what he was drawing as Mason would be protected till he is appointed to the Group 'C' post. The parties are left to bear their own costs.

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(GOPAL SINGH)
MEMBER (A)

27/1/95
(A. K. MISRA)
MEMBER (J)