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Central Administrative Tribunal
Jodhpur Bench, Jodhpur

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Date of order : 9-2-2001

1. O.A.NO. 217/99

2. O.A.NO. 251/99

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Inder Chand S/o Shri Murlidhar Aged about 42 years, Working as Carpenter under the Dy. Chief Engineer (Construction), 1, Northern Railway, Jodhpur R/o Tent in the office of the Inspector of Works (C), Bhagat Ki Kothi, Jodhpur.

Applicant in OA 217/99

Vs.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Dy. Chief Engineer (C)-1, Northern Railway, Jodhpur.
3. Divisional Railway Manager, Northern Railway, Bikaner.

Respondents in OA 217/99

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1. Poonam Chand S/o Shri Mangal Nath aged about 42 years, working as Mason under the Deputy Chief Engineer (Construction), Northern Railway, Bikaner, R/o New Railway Colony, Block No. 237-D, Lalgarh, Bikaner.
2. Laxman Ram S/o Shri Mangal Nath aged about 44 years, working as Mason under the Deputy Chief Engineer (Construction), Northern Railway, Bikaner, R/o New Railway Colony, Block No. 237-D, Lalgarh, Bikaner.

Applicants in OA 251/99

Vs.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Engineer (Construction), Northern Railway, Bikaner.
3. The Assistant Personnel Officer, Northern Railway, Bikaner.

4. The Chief Administrative Officer, Northern Railway, Kashmiri Gate, Delhi.

Respondents in OA 251/99.

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CORAM :

HON'BLE MR. JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

HON'BLE MR. A.P. NAGRATH, ADMINISTRATIVE MEMBER

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Mr. Y.K. Sharma, Counsel for the applicants.

Mr. Kamal Dave, Counsel for the respondents.

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ORDER

PER HON'BLE MR. A.P. NAGRATH, ADMINISTRATIVE MEMBER :


In both these applications, the controversy involved as also the relief sought is same, therefore, these applications are being disposed of by this common order.

2. The applicants in these applications have prayed that the impugned order Annex.A/1 dated 17.07.1998 / 01.09.1998 be quashed and set aside and the respondent department may be directed to fix their lien in group 'C' post in the scale of Rs. 950-1500 (RPS) and they should be regularised.

3. The applicant of O.A. No. 217/99 Inder Chand, was engaged as Casual Carpenter on 15.5.85 under the Inspector of Works (C), Bridge, Northern Railway, Suratgarh and was granted temporary status in December, 1986. It is stated in the application that applicant was subjected to a trade test vide letter dated 25.10.87 and was found suitable for the post of Carpenter. The post of Carpenter

is a group 'C' post and the applicant claims to have been working continuously on this post since his appointment i.e. from 15.5.85. It is the contention of the applicant that he was screened for absorption in Group 'D', while he should have been regularised in Group 'C'.

4. The applicants of O.A.No. 251/99, were engaged as casual Mason on 29.6.83 in the grade of Rs. 260-400 (RPS) in the Bikaner Division and they were granted the temporary status w.e.f. 6.7.84. The applicants have contended that they were subjected to trade test vide letter dated 25.10.87 and were found successful for the post of Mason. It is stated that the applicants are continuously working as Mason since their appointment i.e. from 29.6.83 and have been earning annual increments in the grade of Rs. 950-1500. In the screening test conducted by the department for applicants' absorption in group 'D' category, the applicants refused to appear in the same. But, again they were called to appear in the screening test on 21.9.97 and the applicants again refused to appear and consequently, they represented to the respondents stating that since they were working in group 'C' category right from the date of their appointment, they should be regularised only in a group 'C' post. However, this request of the applicants was turned down by the respondents and vide letter dated 19.1.98, the applicants have been ordered to be absorbed as Khalasies in group 'D' category.

5. In the counter, respondents have denied the stand taken by the applicants and have stated that applicants have no right to be absorbed in Group 'C' category as they are having their lien in Group 'D' cadre.

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The respondents have specifically pleaded that merely for a long period working on a post temporarily/does not create any right in the applicants as it was only a local temporary arrangement/ad hoc arrangement. The applicants can only be regularised on a Group 'D' post in their parent cadre. In these circumstances, the respondents have submitted that applicants have no case and both the applications deserve to be dismissed.

6. We have heard the learned counsel for the parties and perused the records of the cases carefully.

7. So far as the facts in these cases are concerned, they are generally admitted by the parties. The only question which requires to be decided is whether the applicants are entitled to be regularised in Group 'C' post which is rather a promotional post for Group 'D' employees in the respective cadre.

8. The Learned counsel for respondents submitted that both the cases are squarely covered by the law laid down in the Full Bench Judgement delivered in Aslam Khan Vs. UOI and Others (O.A. No. 57 of 1996), decided by the Jaipur Bench of the Central Administrative Tribunal vide its order dated 30.10.2000.

9. We have considered the law established by the Full Bench in Aslam Khan's case. The following question came-up for decision before the Bench in that O.A. :

"Whether the person directly engaged on Group C post (Promotional post) as 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 Group 'D' post by providing pay protection of Group C posts."

In reference to the query made to the Full Bench in Aslam Khan's case, the Full Bench has held as under :-

"In the result, we answer the reference as under :

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."

10. In view of above, the Original Applications filed by the applicants deserve dismissal and are hereby dismissed. However, the respondents shall protect the pay of the applicants which they were drawing while holding a Group 'C' post, after their regularisation in Group D cadre.
11. The parties are, however, left to bear their own cost.


(A.P. NAGRAJTH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

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