IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,

J_O_D_H_P_U_R.

I-O.A. No. 354/1999 Date of Order : 9-2-2001

(1) Onkar S/O Shri Ram Bali, aged about 41 years, Carpenter under Inspecgector of Works (C), Northern Railway, Bikaner, R/O Q. No.232-C, New Railway Colony, Lalgarh, Bikaner.

... Applicant

Vs

1. Union of India, through the General Manager, Northern Railway, Headquarter Office, Baroda House, New Delhi.
2. The Chief Administrative Officer, (Construction), Northern Railway, Kashmeri Gate, Delhi.
3. The Dy. Chief Engineer (Construction), Northern Railway 30, Civil Line, Bikaner.
4. The Divisional Railway Manager, Northern Railway, Lucknow.

... Respondents

II-O.A. No. 382/1999

(1) Sadhu Singh S/O Shri Jora Singh, aged about 43 years, Highly skilled Mason under Inspector of Works (Construction), Northern Railway, Suratgarh, R/O Ward No.20, Near Railway Power House, Suratgarh, District Sri Ganganagar.

... Applicant

Vs

1. Union of India through the General Manager, Northern Railway Headquarters Office, Baroda House, New Delhi.
2. The Chief Administrative Officer, (Construction), Northern Railway, Kashmiri Gate, Delhi.
3. Dy. Chief Engineer (Construction), Northern Railway, Bikaner.
4. The Divisional Railway Manager, Northern Railway, Bikaner.

... Respondents

Contd...2

III-O.A. No.383/1999

(1) Tula Ram S/O Shri Shiv Dayal, aged about 52 years, working as Mate in the pay scale of Rs.950-1500 (RPS) under Deputy Chief Engineer (Construction), Northern Railway, Bikaner in the office of Inspector of Works (Construction), Northern Railway, Suratgarh, R/O Quarter No.33-B, Railway Colony, Suratgarh.

... Applicant

Vs

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Administrative Officer, (Construction), Northern Railway, Kashmiri Gate, Delhi.
3. The Deputy Chief Engineer (Construction), Northern Railway, Bikaner.
4. The Divisional Railway Manager, Northern Railway, Bikaner.

... Respondents

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

Mr. Kamal Dave, Counsel for the Respondents.

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. A.P. Nagrath, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. A.P. Nagrath)

These three Original Applications are being disposed of by this common order as the controversy involved and the relief sought in these cases are same. The applicants have filed respective applications with the prayer that the respondents be directed to regularise them in Group 'C' posts and provide them lien in Group 'C' cadre.

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2. Applicant, Onkar, in O.A. No. 354/99, was engaged as a Casual Labour Carpenter on 01.2.1978. He was subjected to trade test on 15.4.'89 for the post of Carpenter and was declared successful. He was granted temporary status on 01.1.1984. The contention of the applicant is that since he was appointed as Carpenter in group 'C' category and trade tested for the post, he can only be regularised in group 'C' cadre. The applicant was reverted as Khallasi for a short period, but again promoted as Carpenter. Since he was engaged initially as a Carpenter, he claims regularisation in groupt 'C', whereas the respondents have fixed his lien in group 'D' category in the grade Rs.750-940. It appears that the applicant was regularised against the post of Gangman in Lucknow Division vide order dated 6.2.97

3. Applicant, Sadhu Singh, in O.A. No. 382/99 was engaged as a Casual Labour Carpenter on 05.5.1980, and later on he was put to work as a Casual Labour Mason with effect from 22.1.82, both the posts being in Group 'C' scale of Rs.260-400/950-1500 (RPS). It has been stated that the applicant was put to officiate as Highly skilled Mason in grade of Rs. 330-480 (RS) Rs.1200-1800 (RPS) w.e.f. 21.12.'84. The applicant was trade tested on 14.5.1997 and was found suitable for the post of Mason grade. He claims that having put in nearly 14 years of Casual Labour service in Group 'C' it was only just that he is regularised in Group 'C' category and his lien be fixed in the grade 3050-4590 (RPS). He has challenged respondents' action for regularising him in Group 'D'.

4. Applicant, Tula Ram, in O.A. No. 383/99, was engaged as a Casual Mate in the grade of Rs. 260-400 (RS)/950-1500 on 15.12.96, and he attained temporary status on on 01.1.1982. He continued to hold the post in Group 'C' scale. The respondents fixed his lien in Group 'D' vide order dated 20.5.95 against the category of gangman. He has been assigned seniority

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in Group 'D'. He has stated that this action of the respondents is illegal, against the service rules and against the principles of natural justice. As per the applicant, he cannot be regularised in a post carrying a lower ~~xx~~ pay scale than the post in which he was initially appointed.

5. The respondents in their written reply in all the three applications have opposed the plea of the applicants on the ground that the applicants working as a Casual Labour in Group 'C', does not confer any right to abroption in Groupt 'C'. All the applicants are stated to have been absorbed in Groupt 'D' and have been granted ~~xx~~ lien in Group 'D' cadre.

6. We have heard the learned Counsel for the parties, and have gone through the case files,

7. So far as the facts in this cases are concerned, there is no dispute between the parties. The only question which requires to be determined is whether the applicants are entitled to be regularised in Group 'C' post which is rather promotional post for Group 'D' employees in the respective cadre.

8. Learned Counsel for the respondents submitted that these cases are squarely covered by the principles laid down in Full Bench judgement in O.A. No.57/96-Aslam Khan Vs Union of India & Ors. decided on 30.10.2000. He also stated that Hon'ble the Supreme Court has held the principle in the case of UOI & Anr Vs. Motilal & Ors AIR 1996 SC 3306 and 1996 (33) ATC 304 that continuance itself does not entitle an employee to be regularised if the appointment is not made as per rules.

9. We have perused the decision of the Full Bench in O.A. No. 57/96. The following question came up for decision of the Full 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 feeing cadre in Group 'D' post by providing pay protection of Group C' posts."

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It was held 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 the above, these abovementioned Original Applications are dismissed insofar as the prayer for absorption in Group 'C' is concerned. However, respondents shall protect the pay of these applicants in which they were drawing while holding Group 'C' posts, after their posting against Group 'D' posts.

Sd/

(A.P. NAGRATH)
Adm. Member

Sd/

(B.S. RAIKOTE)
Vice Chairman

J

प्रमाणित सही प्रतिलिपि
14/6/2001.
अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर

P/1084

16/2/2017

Part II and III destroyed
in my presence on 21-3-07
under the supervision of
section officer ( ) as per
order dated 19.2.2007

Section officer (Record)

Ready