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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Original Application No. 56/2003

Date of decision: 19.08.2004.

The Hon'ble Mr. J K Kaushik, Judicial Member.

Hon'ble Mr. G.R. Patwardhan, Administrative Member.

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1. Somdutt S/o Chaman Lal aged about 46 years, working as Highly skilled Fitter II at Ratangarh.
2. Sohan Singh, S/o Seoji Singh, aged about 57 years, Working as Highly Skilled Fitter II at Ratangarh.
3. Rewat Mal, S/o Deepla aged about 50 years, Working as Highly Skilled Fitter II at Ratangarh.
4. Annudin, S/o shri Chand Khan aged about 59 years, Working as Highly Skilled Fitter II at Ratangarh.
5. Ramswroop S/o Bhinva Ram aged about 40 years, Working as Highly Skilled Fitter II at Ratangarh.
6. Ram Gopal S/o Radha Kishan, aged about 50 years, Working as Highly Skilled Fitter II at Ratangarh.
7. Sanwat Ram, S/o Phusa Ram aged about 45 years, Working as Highly Skilled Fitter II at Ratangarh.
8. Brij Mohan S/o Bhanwar Lal aged about 42 years, Working as Highly Skilled Fitter II at Ratangarh.
9. Heeru Khan, S/o Fateh Khan aged about 45 years, Working as Highly Skilled Fitter II at Ratangarh.
10. Manak Chand S/o Kishan Lal aged about 45 years, Working as Highly Skilled Fitter II at Ratangarh.
11. Salamuddin, S/o Safi aged about 45 years, Working as Highly Skilled Fitter II at Ratangarh.



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12. Shiv Bhagwan S/o Dhram Pal aged about 45 years,
Working as Helper Khalasi Ratangarh
13. Babu Khan S/o Gulab Khan aged about 40 years,
Working as Helper Khalasi at Ratangarh.
14. Yakub Khan, S/o Gafur Khan aged about 40 years,
Working as Helper Khalasi at Ratangarh.
15. Hussain Khan, S/o Azim Khan aged about 40 years,
Working as Helper Khalasi at Ratangarh.
16. Ratan Lal, S/o Rukka Ram aged about 40 years,
Working as Helper Khalasi Ratangarh.
17. Ramesh Chander S/o Ram Lal aged about 40 years,
Working as Helper Khalasi at Ratangarh.
18. Purna Ram, S/o Mala Ram aged about 45 years,
Working as Helper Khalasi at Ratangarh.
19. Murad, S/o Abdu Khan aged about 50 years,
Working as Helper Khalasi at Ratangarh.
20. Babu Lal, S/o Nagar Mal aged about 50 years,
Working as Helper Khalasi at Ratangarh.
21. Buniyad Khan, S/o Gulab Khan aged about 38 years,
Working as Helper Khalasi at Ratangarh.



Residence address of all the 21 applicants is C/o Shri Som Dutt, Bhartiyaon Ki Dhani, Ward No. 20, PO Ratangarh, Distt. Churu (Rajasthan)

Applicants.

Rep. By Mr. Y.K. Sharma, : Counsel for the applicant.

VERSUS

1. Union of India through the General Manager, North West Railway, Jaipur.
2. Divisional Railway Manager, North West Railway Bikaner Division, Bikaner.

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3. Senior Divisional Engineer, Carriage and Wagon
North West Railway Ratangarh.

: Respondents.

Rep. By Mr. Manoj Bhandari: Counsel for the
Respondents.

ORDER

Mr. J K Kaushik, Judicial Member.

Shri Som Dutt and 20 others have filed this O.A under Sec. 19 of the Administrative Tribunals Act, 1985 and have inter alia prayed for quashing the order dated 17.01.2003 (Annex. A/1) with a further direction to the respondents to get their job analysis conducted.



2. The case was listed for admission today and the pleadings are complete. Keeping in view the urgency of the matter in as much as there is an objection regarding the maintainability of this case on the ground of availing alternative remedy. The learned counsel for both the parties were heard for final disposal at the admission stage. We have anxiously considered the submissions made on behalf of both the parties as well as perused the records of this case.

3. The factual background of this case is at a very narrow compass and the applicants are employed in semi skilled, skilled

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and highly skilled posts in the Carriage and Wagon Depot at Ratangarh. These posts were classified as continuous and the applicants have been performing eight hours shift duty for the last 25 years. Further, it has been averred that the respondent No. 2 has issued the order at Annex. A/1, whereby the classification of these posts have been changed from continuous to essentially intermittent and as a result of this the work, which was attended to by 52 employees, would be manned by 21 employees. It has been further averred that the classification of the posts has been arbitrarily changed without carrying out the job analysis.



4. The impugned order has been assailed on diverse grounds. The main ground on which the applicants have raked their claim is that the impugned order has been passed by an incompetent authority. It has also been averred that a subordinate authority, if at all authorised to change the classification, he could do so only as a temporary measure, but in the instant case it has been made on a permanent basis. The rules in force have not been followed and the whole exercise has been done without carrying any job analysis.

5. The respondents have resisted the claim of the applicants and have averred that the applicants have alternative remedy

available to them under Rule 4 of the Railway Servants Hours of Employment Rules 1961, which they have not availed of. It has, also, been averred that after availing the aforesaid remedy, a further remedy of appeal has been provided under sub rule 2 of Rule 4 of the aforesaid rules and the applicant can be filed before Central Government. It is also the defence of respondents that no right of the applicants has been said to be infringed and the competent authority has changed the classification. Therefore the O.A deserves to be dismissed on this ground alone. The Chief Personnel Officer has been delegated with the power under Rule 3 of the said rules and was competent to pass the impugned order. Thus the classification has been changed as per the Rules in force. The grounds raised in the O.A have been generally denied.



6. Both the learned counsel for the parties have reiterated their pleadings. The learned counsel for the respondents has been quite fair enough and has facilitated disposal of this case by providing the original records relating to the delegation of powers as per Sec 71 (E) of the Indian Railway Act, 1890, to the Chief Personnel Officer. The original of delegation of powers to the other authorities has been shown to us and we found that there is absolutely no infirmity as far as the competency of the authority is concerned.

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7. As far as the objection of the respondents in regard to the maintainability of this O.A on the ground of jurisdiction is concerned, our attention was drawn to a judgement passed by this Bench of the Tribunal in the case of **Northern Railwayman's Union through its Divisional Secretary and others** [O.A. No. 334/98- decided on 18.08.2000] and [O.A No. 219/94 decided on 18.04.2000] and also a very detailed and exhaustive judgement in the case of **Shanker Lal and ors. Vs. Union of India and ors.** [2002 (3) SLJ (CAT)-189]. We have waded these judgements and we find that the issues have been elaborately dealt with, especially in the case of **Shankarlal & ors** (supra) and the same does not remain res integra. This Bench of the Tribunal has in an unequivocal term held that the O.A is not maintainable since the applicants have not availed alternative remedy by way of filing an appeal before the Regional Labour Commissioner or before the Government. We have absolutely no hesitation in following the decision in **Shankarlal & ors** (supra) and decide this O.A on similar lines. We are refraining from narrating the discussions afresh since we would treat the said judgement as a part of this order.



8. In the premises, the O.A being not maintainable and fails and stands dismissed without any order as to costs. However, the applicants shall be at liberty to challenge the impugned order before the appropriate authority as contemplated under Rule 4 of

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the Rules 1961. The Registry may return the original papers to the applicants in case any written request is made to this effect as per the rules.

(G R Patwardhan)
Administrative Member

(J K Kaushik)
Judicial Member.

Jsv.

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Part II and III destroyed
in my presence on 29/10/13
under the supervision of
section officer () as per
order dated 18/10/2013
S.K. Singh
Section officer (Record) 29.10.2013