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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
JODHPUR.

Date of Decision: 06.6.2002

OA 130/2002

Surjeet Singh, Mason Khalasi under Asstt.Engineer II,
Hanumangarh Jn.

... Applicant

V/s

1. Union of India through General Manager, N/Rly,
Baroda House, New Delhi.
2. Divisional Rly Manager, N/Rly, Bikaner.
3. Divisional Personnel Officer, N/Rly, Bikaner.
4. Divisional Supdt. Engineer II, N/Rly, Bikaner.
5. Asstt.Engineer II, N/Rly, Bikaner Dn., Hanumangarh
Junction.

... Respondents

CORAM:

HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

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

For the Applicant

... Mr.Lalit Vyas

For the Respondents

... ---

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

In this application filed u/s 19 of the
Administrative Tribunals Act, 1985, the applicant has
prayed for the following reliefs :

"8.1 That the applicant may kindly be
regularised and promote in category 'C' post
as Mason from 17.10.2001 or any other date which
the Hon'ble Tribunal may deem just and proper
with all consequential benefits. Necessary
directions in this respect be issued to the
respondents.





8.2 That the applicant may kindly be granted all due increments as Mason from the date of the judgement of the Tribunal i.e. 22.9.99 passed in OA 34/97."

2. Heard the learned counsel for the applicant. Reading of the second clause of the prayer vis-avis the order of this Tribunal passed on 22.9.99 in OA 34/97 makes it apparent that this part of the prayer is ill-concieved. Operative part of the said order dated 22.9.99 is reproduced below :

"In the light of above discussion, we allow this OA 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."



As per this order, only pay of the applicant in Group'C' had to be protected while he was appointed as a Gangman after screening. There was no direction to regularise him as Mason and to grant him increments.

3. The learned counsel for the applicant stated that the relief was based on the orders of Hon'ble the Supreme Court in the case of Ram Kumar & Ors. v. Union of India & Ors., 1996 (1) SLJ 116, wherein Hon'ble the Supreme Court had observed that the 12 applicants in that case were required to be considered

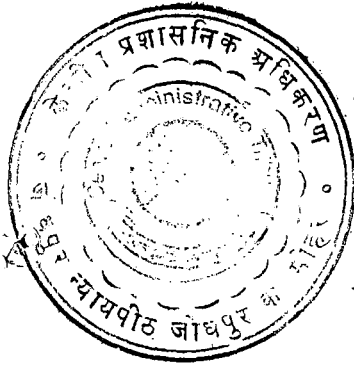
for regularisation against Class III posts. He submitted that the applicant was ~~as~~ similarly placed who had worked as a casual Mason in Group 'C' for a number of years and thus had a right to be regularised as such as he had completed more than five years of service as Mason. The issue whether a casual labour in Group 'C' on the Railways & has a right to be regularised in Group 'C' has been considered by the Full Bench in the case of Aslam Khan v. Union of India & Ors., 2001 (2) ATJ 1. The principle established in that case is extracted below :



"A person directly engaged on Group-C post (promotional) 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 protected."

In view of this settled legal position, the applicant has no case. He has been regularised in Group 'D' as a Gangman and his pay has been protected at the level he was drawing while holding the post of Mason. This is also in conformity with the orders of this Tribunal in OA 34/97 filed by the applicant earlier. In the case of Ram Kumar, the Apex Court had observed only in respect of 12 persons that they could be considered by the department for regularisation. It was not &

a case where those 12 persons had already been absorbed in Group'D'. In fact, in the same case it has clearly been stated, as under :



"Since regularisation on the basis of our orders have to be only in Class IV posts, Mr.Sibal, on instructions 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."

This only confirms the position that casual labour in Group'C' have no right to be regularised in Group-C. They can only be regularised in Group'D' i.e. Class IV.

4. The applicant has already been absorbed as a Gangman in Group'D' and has obviously found a place in the seniority list for the cadre of Gangmen in his own unit. His further promotion/advancement will necessarily be regulated as per his own turn in the seniority list. He cannot claim to jump over others who are senior to him.

5. This OA is totally devoid of merits and is, therefore, dismissed in limine.

(A.P.NAGRATH)
MEMBER (A)

(JUSTICE O.P.GARG)
VICE CHAIRMAN