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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

O.A. No.5/2007

Date of decision: 05.07.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. R.R. Bhandari, Administrative Member.

Surjeet Singh, S/o Mahendra Singh aged about 53 years resident of Ward No. 8 near post office Hanumangarh junction at present posted as Khalasi, North Western Railway, Section Engineer (Works-II) Hanumangarh Junction.

: Applicant.

Rep. By Mr. Kishan Bansal : Counsel for the applicant.

VERSUS

1. The Union of India through the General Manager, Headquarter North Western Railway, Jaipur.
2. The Divisional Personnel Officer, North Western Railway, Bikaner.
3. Assistant Divisional Engineer, North Western Railway, Hanumangarh Junction, Dist. Hanumangarh.

: Respondents.

Rep. By Mr. Salil Trivedi: Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh Vice Chairman.

The applicant has filed this O.A seeking the following reliefs:

i) By an appropriate order or direction, the impugned order dated 27.11.2006 (Annex. A/1) passed by the respondent No. 2 may kindly be declared illegal and be quashed and set aside.

ii) By an appropriate order or direction, the respondents be directed to grant increment to the applicant on the basis pay of Rs. 3800/- since 1996 and accordingly his pay may also revised as per the directions of this Hon'ble Tribunal

iii) By an appropriate order or direction the respondents may be directed to grant arrears of salary with interest @ 18% per annum.

iv) Any other appropriate order or directions which this Hon'ble Tribunal considers just and proper in the facts and circumstances of the present case, may kindly be passed in favour of the applicant.



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2. The case of the applicant is that the applicant was initially engaged as Casual Labour Mason on 09.04.1973 and he has been working as Mason right from the date of his initial appointment. The post of Mason falls in Group C category. It is further stated that on 08.12.1986, he was screened and medically examined and he was declared fit for regularization on the post of Group C category and on being found fit he was granted CPC scale. However, in the month of February 1996, the applicant was again subjected to screening and was recommended for the post of Khalasi, Safaiwala or Gangman in Group 'D' category, whereas the applicant was working on the post of group 'C' category right from the day of his initial appointment and vide order dated 20.10.96, the applicant was posted as Khalasi. Against that order the applicant preferred O.A. No. 34/97 and this Tribunal has stated to have ordered that he should have been screened for a Group C post. It was further held that 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 till he is appointed to the Group 'C' post. It is further stated that despite the directions of this Tribunal, his pay as Mason has not been protected and the pay of the applicant was fixed at Rs. 3,800/- as on 17.10.96 and after that he was granted the pay scale of Khalasi with effect from 17.10.96 but the difference had been added to the pay on the post of Khalasi as aforesaid. It is further submitted that when he was initially appointed as Mason and was working as such at Hanumangarh. Now posting him as Gangman at the verge of his retirement will create hardship and it will be difficult for him to learn the work of Gangman and perform



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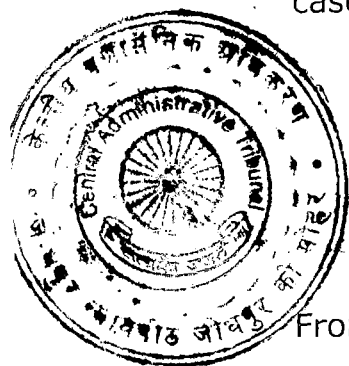
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the duties as such due to his old age. Therefore it is prayed that the order vide which he has been declared surplus should be quashed.

3. The respondents are contesting the OA by filing a detailed reply. They pleaded that since the applicant could not be regularized in Group 'C' post he was screened for Group 'D' post and was posted as Gangman. His pay was also protected and now vide the impugned order he has been redeployed as Gangman, the post on which he was initially appointed. The applicant cannot have any grievance of the same. The respondents have prayed for the dismissal of the O.A.

4. We have heard the learned counsel for the parties and gone through the pleadings and records carefully. The learned counsel for the applicant has reiterated the pleadings and contentions narrated in the O.A. The learned counsel for the respondents in addition to reiterating the pleadings contained in the reply brought to our notice a decision of this Bench of this Tribunal dated 06.06.2002 in O.A. No. 130/2002, filed by the applicant. In that case after hearing the parties, the Tribunal has held as under:

" 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 Gangman 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"



From the above observations it is quite clear that the applicant was absorbed as Gangman and depending his seniority he would get his promotion in his own turn. Therefore, now the applicant cannot claim that he was appointed as Mason or a Khalasi under the Pathway Inspector, initially. His appointment remains as Gangman.

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Now the applicant cannot make a somersault and claim that he has been appointed as Mason and not as a Gangman. He continues to have lien on the post of Gangman. Moreover the applicant did not challenge the observations made in O.A. No. 130/2002.



In view of the above discussion, we hold that there is no merit in this O.A no fault can be fastened with the action of the respondents. The O.A is therefore dismissed with no order as to costs.

R.R. Bhandari
(R.R.Bhandari)
Administrative Member

Kuldip Singh
(Kuldip Singh)
Vice Chairman.

Jsv.

Part II and III destroyed
in my presence on 4/16/14
under the supervision of
section officer [signature] as per
order dated 26/3/2014
[signature]
Section officer (Records)

No. 131.
Dt. 26.7.12

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R/c
P. [signature]
10/7/06
(for sale to [signature])