

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH AT CALCUTTA

O.A.NO.78/1997

Monday this the 10th day of January, 2005

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. G.R. PATWARDHAN, ADMINISTRATIVE MEMBER

1. Paresh Nath Ghosal.
2. Rabindra Mangal Applicants

(By Advocate Mr. P.C. Maity)

V.

Union of India and five others.... Respondents

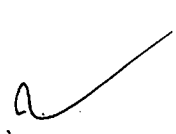
(By Advocate Mr. B.K. Gupta) (not present)

The application having been heard on 10.1.2005, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant 1&2 were appointed as Khalasis with effect from 3.3.81 and 19.3.81 respectively on compassionate grounds in Shop No.50. Pursuant to the Railway Works Category Tribunal Award the applicant No.1 was upgraded with effect from 4.9.81 and the applicant No.2 with effect from 1.1.84. Owing to diminution in the work in Shop No.50, the administration drafted the workmen from Shop No.50 to 51. The applicants 1&2 were thus transferred to Shop No.51 in January, 1983 and their ticket numbers also were changed. The grievance of the applicants now is that while several persons who were their juniors in Shop No.50 and were transferred to shop No.51 were given promotion to higher posts while the applicants were not so considered and promoted. Had the



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applicants not been transferred permanently their ticket numbers would not have been changed and therefore the transfer of the applicants from shop No.50 to 51 being permanent transfer the applicants claim that not considering them for promotion on par with persons junior to them whose details are given in page 5 of the application amounts to arbitrariness and discrimination offending Articles 14 and 15 of the constitution of India. Representations made in that regard by the applicants to the 4th respondent Deputy Chief Electrical Engineer (Works) remained not responded to. Under these circumstances the applicants have filed this application praying that the respondents be directed to grant promotion to the applicants according to their seniority with retrospective effect in the shop No.51 with consequential benefits.

2. The respondents in their reply statement contend that the applicants are working in Shop No.51 as a matter of work arrangement, that their seniority and lien is in shop No.50, that no junior of the applicants in shop No.50 have so far been promoted overlooking the seniority and those who have been promoted as alleged in the application are persons who have been permanently transferred and are born on the role of Shop No.51. The Original Application is also contested on the ground of limitation.

3. The applicants have filed a rejoinder, in which they reiterate their claim that they are permanently transferred and to demonstrate that they were permanently transferred the applicants have stated that their ticket numbers have been changed and persons who are sent to work in shop No.50 on working arrangements are retained with the same ticket numbers.

4. When the application came up for hearing on earlier occasions the respondents were directed to make available the service records of the applicants and those of some of the persons mentioned in the application and rejoinder. Unfortunately the respondents have not made available the said documents nor was there anybody for the respondents today. The case is of the year 1997 and the applicants cannot be kept in an animated suspension without putting an end to the already delayed litigation. In the absence of the materials directed to be produced, we are not able to say whether the change of the ticket numbers of the applicants would amount to a permanent transfer or not. Under these circumstances, we are of the considered view that the interests of justice will be met if the 4th respondent is directed to look into the grievances of the applicants projected in their representations (A3) as also what has been elaborately stated in their original application and rejoinder, in the background of records relating to the issue by which the applicants and the persons who according to the applicants being

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juniors to them were promoted and take a decision as to whether the applicants' transfer was a permanent transfer and if it is found that the transfer was of a permanent one to consider the promotion with effect from their due dates on par with persons with lesser length of service in Shop No.51.

5. In the result, in the peculiar circumstances of the case we dispose of this application directing the 4th respondent to consider the grievances of the applicants projected in Annexure.A.3 representation as also in this OA and rejoinder in the light of the orders by which those who were sent to Shop No.51 including the applicants and others and take an appropriate decision on the representation after affording the applicants an opportunity of personal hearing and dispose of the grievance with a speaking order within a period of three months from the date of receipt of a copy of this order. If the claim of the applicants that their transfer to Shop No.51 was permanent transfer is found true the respondents shall consider the applicants' promotion w.e.f. the due date on par with their junior and issue resultant orders within a month thereafter. If the applicants would feel aggrieved by the outcome of the decision, it would be open to them to seek appropriate relief in accordance with law. No costs.

Dated the 10th day of January, 2005


G.R. PATWARDHAN
ADMINISTRATIVE MEMBER
(S)


A.V. HARIDASAN
VICE CHAIRMAN