

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 467

1989

DATE OF DECISION 25-3-1991

A. Sebastian and others Applicant (s)

Mr. B. Suresh Kumar Advocate for the Applicant (s)

Versus

Chief Personnel Officer, Respondent (s)
Southern Railway, Madras and others

Ms. Sumathi Dandapani Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicants are C & W Khalasis employed in the Mechanical Department of the Southern Railway, Trivandrum Division. According to them they have attained temporary status in the year 1978 and were eligible to be empanelled against the vacancies ^{which *is*} arose on 31.12.1980, but they were not empanelled. Hence representations were submitted directly and through the Labour Unions.

2. The applicants filed this application with the following reliefs:

- "i) To fix the seniority of the applicants in the cadre of C & W Khalasis from the date they attained the temporary status i.e. the date on which they were eligible to get empanelled;

as

- (ii) To quash Annexure-IV order and direct the respondents to give retrospective effect to the empanelment in regular service with effect from the date of occurrence of the vacancy as far as the applicants are concerned.
- (iii) To give promotions due to the applicants based on refixation of their seniority and
- (iv) Such other reliefs as this Hon'ble Tribunal deems fit and proper on the facts and circumstances of the case."

3. We have heard the learned counsel for both sides. The learned counsel for the applicant stressed before us only relief No. 2. This according to the applicant is squarely covered by the judgment of the Tribunal Annexure-V rendered in O.AK 281/87, O.A.K. 158/87 and OAK 31/88. Considering the cases of similarly placed Khalasis, these connected cases were disposed with the following directions:

"We, therefore, allow the aforesaid three applications to the extent of directing that the applicants should be deemed to have been notionally absorbed with effect from 31.12.81, 31.12.82 and 31.12.83 as the case may be, depending upon their empanelment against the vacancies as on these respective dates. They should count for the purpose of seniority the date of such notional absorption without payment of arrears of salary etc. and should be considered for further promotions depending upon their revised seniority. There will be no order as to costs."

4. The learned counsel for the applicant also submitted that in the light of the minutes of the XXIV PNM Meeting held with the representatives of the SRES/TVM Division on 28.8.90, this case can be disposed of. He also brought to our notice para 65 of the said minutes. It is extracted below:

"Sub. No. 23/XX III/90

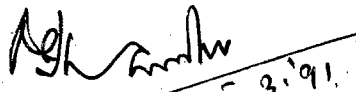
Revision of the date of empanelment date C & W
Khalasis TVC Division

REMARKS: This subject was discussed even before starting discussions of other subjects. The seniority of the C & W Khalasis empanelled against vacancies are on 31.12.81, 31.12.82, 31.12.83 and 31.12.84 were only revised giving them the notional empanelment as on the respective dates. The seniority of those empanelled against the vacancies as on 31.12.80 will not change and they will rank senior to those empanelled against vacancies as on 31.12.81 etc. To make the point more clear a combined seniority list with reference to the year of empanelment will be published."

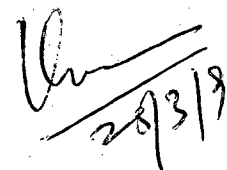
The learned counsel submitted that the Khalasis mentioned in the above paragraphs are similarly situated persons and in respect of them it has been decided to fix their seniority against the vacancies as on 31.12.81, 31.12.82, 31.12.83 and 31.12.84 giving them notional empanelment as on the respective dates. The applicants in this case are entitled to some benefits on the basis of the decision of the minutes referred to above.

5. This is a matter which requires consideration by the respondents in the light of the judgment Annexure A-5 and the decision in the minutes referred to above. Accordingly we dispose of the application with the direction that the respondents shall consider the claims of the applicants for regularisation in service w.e.f. 31.12.80 in the light of the decision rendered by this Tribunal in Annexure A-5 and the minutes referred to above. This shall be done within a period of three months from the date of receipt of a copy of this judgment.

6. The application is disposed of as above. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER

25.3.91


(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

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