

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~XXXX~~No.

54/90

189

DATE OF DECISION 30.4.1991

~~P.Ayyappan and 2 others~~ Applicant (s)

~~M/s.K.Ramakumar, V.R.Ramachandran Nair~~ Advocate for the Applicant (s)

Versus

~~Union of India represented by the~~ Respondent (s)
General Manager, Southern Railway, Madras and 17 others

~~Smt.Sumathi Dandapani for R1 to 3~~ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji, Vice Chairman

The Hon'ble Mr. A.V.Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ☒
2. To be referred to the Reporter or not? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement? ☒
4. To be circulated to all Benches of the Tribunal? ☒

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

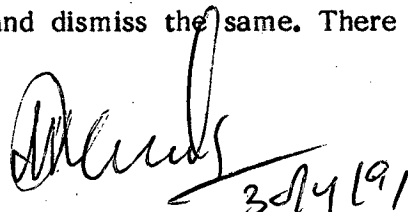
In this application dated 20.12.1989 the three applicants who have been working as regular Gangmen in the Trivandrum Division of the Southern Railway have prayed that they should be regularised as Khalasis and shown as senior ^{to} respondents 4 to 18 in the cadre of Khalasis. According to the applicants they were appointed as casual Khalasis in Trivandrum Division from 1971 onwards, granted temporary status in 1980 and empanelled and posted as regular Gangmen from 1988. Their grievance is that contrary to the previous practice, the available posts of Khalasis created under the decasualisation scheme are not being filled up by posting them as Khalasis while many of the Gangmen junior to them have been so posted. They had also volunteered to be posted as Khalasis, but their names do not figure in the impugned list at Annexure-A while respondents 4 to 16 who are junior to them as Gangmen have been included in the list. Their representations have borne no fruit.

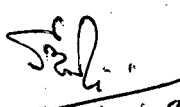
2. According to the respondents 1 to 3 the applicants were initially engaged not as casual Khalasis but as casual labourers in Trivandrum Division.

When 145 posts of Khalasis in Trivandrum Division were created under the decasualisation scheme, 58 posts were set apart for being filled up by calling for volunteers of those Gangmen who were having erstwhile service in the particular wing for which they volunteered. Since the applicants were working under ^{the} Construction organisation they could not be considered for posting as Khalasis in the Open line. The respondents have also referred to the order of this Tribunal dated 5.9.89 in TAK 325/87 and O.A 210/89 and a series of similar other cases in which it was directed that the post of Khalasis created under the decasualisation scheme, in the first instance should be filled up by casual labourers who are waiting for regularisation in the Division ^{and} willing to be absorbed as Khalasis and only after such casual labourers are absorbed, should the remaining vacancies be made available for regular Gangmen. Since the applicants are already working as regular Gangmen, they cannot be absorbed as Khalasis ^{in preference to casual Khalasis} against the posts under the decasualisation scheme.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The Khalasis are in the scale of Rs.750-940 and Gangmen are in the higher scale of Rs.775-1025. This Tribunal in a number of cases has been taking the decision that posts of Khalasis created under the decasualisation scheme should first be made available to casual labourers waiting to be regularised and only after all casual labourers willing to be absorbed as Khalasis are covered, the remaining vacancies, if any, should be made available to the regular Gangmen. The logic and equity are clear. Posts created under decasualisation scheme being primarily meant for regularisation of existing casual labourers, the same cannot be pre-empted by Gangmen who are already regular employees. Further it was felt that Gangmen being in a higher scale of pay, should not normally be absorbed as Khalasis in the lower pay scale as a matter of right.

4. In the facts and circumstances we see no force in the application and dismiss the same. There will be no order as to costs.


(A.V. Haridasan)
Judicial Member


(S.P. Mukerji)
Vice Chairman