

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.542/2002.

Friday this the 20th day of August 2004.

CORAM:

**HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER**

1. G.Asharafulla Khan, Kahlasi Helper,
Diesel Shed, Southern Railway,
Palghat Division, Erode.
2. T.Balan, Khalasi Helper,
Diesel Shed, Southern Railway,
Palghat Division, Erode. Applicants

(By Advocate Shri Siby J.Monippally)

Vs.

1. Union of India, represented by
the Divisional Railway Manager,
Palghat Division, Palghat.
2. Senior Divisional Personnel Officer,
Palghat Division, Palghat. Respondents

(By Advocate Mr.P.Haridas)

The application having been heard on 20.8.2004, the Tribunal on the same day delivered the following:

O R D E R

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

The applicants two in number, who are working as Khalasi Helpers (Mechanical) in the Diesel Loco Shed at Erode are aggrieved because all of a sudden by Annexure A-1 dated 10.7.2002 their pay had been retrospectively refixed to their detriment without even giving them a notice. The facts relevant for disposal of this O.A. can be stated thus:

2. The first applicant commenced service as Casual Labour on 22.9.1978 and was granted temporary status on completion of 120 days. He was regularised in service as Khalasi in the Steam Loco

Shed Erode on 27.12.1982. On the abolition of Steam Loco he was transferred to Villupuram on 27.12.1984 and was promoted as Khalasi Helper with effect from 1.1.86 in the scale of pay of Rs.2650-4000. He was then transferred to Diesel Loco Shed on 1.9.1993 and has been drawing Rs.3580/- in the scale Rs.2650-4000 w.e.f. 22.1.2002. The 2nd applicant entered service in 1978 and he was granted regularisation on 27.12.1982 and promoted as Khalasi Helper on 1.1.1986. He was also drawing pay of Rs.2510/- in the scale Rs.3650-4000. While so, the impugned order A-1 without any notice have been issued to them reducing their pay to Rs.3370/- w.e.f.20.11.2001 from Rs.3580/- and to Rs.3510/-. The applicants apprehend recovery of the excess payment also. Alleging that retrospective reduction and re-fixation of pay without notice is illegal and unjustified, the applicants have filed this O.A. seeking to set aside A-1 and to grant them such reliefs as the Tribunal deems fit.

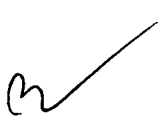
2. The respondents seek to justify the impugned orders. The contentions raised are as follows:-- When the applicants were working as Khalasi Helpers in Thiruchirappally and Madurai divisions respectively, as they became surplus there, they were transferred to Palakkad Division with supernumerary posts, and they had no promotional avenues. As there was a number of cases like that, with a view to give the applicants and similar others opportunity of career advancement at the same time not affecting the interests of the existing staff in the Diesel Shed Erode, a meeting was held with the officers and representatives of the organised labour unions on 13.7.99. It was decided that the surplus staff from Madurai and Thiruchirappally Divisions would be deemed to have been absorbed in the Diesel Shed Erode

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w.e.f.14.12.94 (i.e.) the date on which surplus staff joined Diesel Shed Erode as Diesel Khalasis. Accordingly as per Annexure R-1 order all surplus staff as on rolls on 1.10.2000 were absorbed. Their pay was protected in terms of Railway Board's letter dated 23.9.92 and an office order to that effect was issued on 10.7.2002. If the applicants were aggrieved, they should have challenged the order dated 6.10.2000. Hence, the O.A. is liable to be dismissed.

3. On a consideration of the facts and circumstances revealed from the material placed on record, we find that the action taken to absorb the applicants in the grade of Khalasi was justified as that was the only alternative for protecting their interest as also the interest of all those who are in the establishment till their absorption. The retrospective re-fixation of the pay also has become necessary. A temporary loss that the applicants should suffer in the reduced pay have become inevitable. However, we are of the considered view that to make any recovery from the pay and allowances of the applicants who are low paid employees of what have been paid to them over a period of time would be too harsh on them and unjustified for they had not been responsible for the situation.

4. Going by the impugned order we do not find any indication that the respondents intend to make any recovery. Learned counsel of the applicants state that recovery has been made in the case of similarly situated persons and they reasonably apprehend that it would be made in their case too. We are of the considered view that the Railway administration has to be



restrained from making any recovery on the basis of the impugned order from the pay and allowances.

5. In the light of what is stated above, while declining the relief to set aside A-1, we direct the respondents not to make any recovery from the pay and allowances of the applicants on the basis of A-1.

6. O.A. is disposed of as above. No costs.

Dated the 20th August, 2004.


H.P.DAS
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

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