

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM

Dated Wednesday the ninth day of August,
One thousand, nine hundred and eighty nine.

Present

Hon'ble Shri NV Krishnan, Administrative Member

Registration No.OA 232/89

KK Parvathy

: Applicant

Vs

- 1 Union of India rep. by
the General Manager
Southern Railway, Madras
- 2 Divisional Personnel Officer
Southern Railway
Trivandrum
- 3 Executive Engineer(Constn.)
Southern Railway, Trichur
- 4 The Assistant Engineer(Constn.)
Southern Railway, Trichur
- 5 Chief Permanent Way Inspector,
Southern Railway(Constn.)
Trichur
- 6 The Permanent Way Inspector
Southern Railway, Chalakudi : Respondents

M/s K Ramakumar, VR Ramachandran Nair
and P Nandakumar : Counsel of Applicant

Smt Sumathi Dendapani : Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member

The applicant, a casual labourer who had attained temporary status, was screened alongwith 13 other ~~women~~ for regular appointment. ^uas ~~women~~ ~~khalasi~~. On being selected, she was posted as a temporary woman Khalasi by the order dated 7.3.89 (Annexure-A) under the Permanent Way Inspector, Chalakudi. This application is directed against this order. The ground adduced is that 13 others who have been selected alongwith the applicant have been posted to work in the

Office of the Assistant Engineer, Trichur and in the Office of the Permanent Way Inspector, Chalakudi. It is contended that the applicant has passed the SSLC Examination, while many of the remaining 13 persons are educated only upto 8th Class. Yet, excepting the applicant, all the other 13 persons, including another lady, Sarada, have been posted ^{in the} ~~to that~~ office. Among those posted are able bodied young men, less educated than the applicant who could as well work in the gang. She alleges that ^{for} ~~the~~ posting to the gang has been done deliberately by the Assistant Engineer, ^{at Trichur} ~~with~~ a view to ^{for} ~~the~~ humiliate ~~the applicant~~.

2 The Respondents have denied these allegations made in the application. It is stated that 8 Women Mazdoors were screened, ^{besides} ~~including~~ the applicant, and, ^{being} empanelled as Women Khalasis, ^{were} ~~are~~ posted under the PWI Chalakudi. It is denied that the Office of the Assistant Engineer, Trichur or PWI Chalakudi has such a large number of ^{posts} ~~vacancies~~ as to absorb the 13 people screened and selected as alleged in the application. It is stated that under the PWI Chalakudi there are only 2 Assistant PWIs and 2 clerks in the office. The rest are in the field/gangs and for the first time a separate formation of women Khalasis has been constituted. They have also denied the existence of ~~many~~ vacancy in the office and have stated that the applicant, therefore, cannot be accommodated in the office.

3 The learned counsel for the parties advanced lengthy arguments both when the interim relief was considered as well as at the final hearing. I have perused the records of the case and carefully considered the arguments advanced.

4 In the absence of any specific proof adduced by the applicant, it cannot be believed that as many as 13 persons of Grade D ~~who~~ have been posted in the Office of the Assistant Engineer, Trichur and of the Permanent Way Inspector, Chalakudi. Considering ~~the~~ ^{in charge} fact that both these functionaries are essentially ~~enlarged~~ of the field work, it is inconceivable that they can have a large office to accommodate 6 to 7 Grade D persons in each office. It is specifically stated in the counter affidavit that the office of the PWI consist^s~~ing~~ of only the PWI himself, 2 Assistant PWIs and 2 Clerks. Therefore, the question of posting a large number of persons in the office does not arise. The applicant has no doubt filed an affidavit on the 10th July, 89 stating that 6 persons are working in the office of the PWI Chalakudi and 9 persons are working in the office of the PWI Trichur. This has been effectively countered by the affidavits of PWI Chalakudi and PWI Trichur. The latter has stated that ^{as Khalasis in the field,} there are 11 women working under him, including Sarada. As Sarada alone is from Trichur District, she has been given engagement in the yard at Trichur where she under ^{takes} ~~took~~ the work such as counting and stacking bolts, round spikes etc.

After this work is over she will be sent with other women Khalasis.

5 The applicant has stated in the rejoinder filed on 27th July, 1989 that ^{she} ~~the applicant~~ was all along working in the office from 1973 because of her educational qualifications. If that had been so, this could have been mentioned specifically in the application itself. In any case in view of the fact that a specific statement has been made that in the Office of the PWI Chalakudi there is no post of Khalasi ~~exists~~, the question of considering her appointment in the office does not arise.

6 The learned counsel for the applicant then drew our attention to, ^{he} counter affidavit filed by the Southern Railway in TAK No.772/87 in which it was contended that women mazdoors can never be absorbed as Gangmen under the PWI considering the nature of work done in the gang. He therefore, argued that, obviously, the applicant and other women who have been regularised ^{comes} ^{have} ~~and~~ not been sent to the Gang, but ^{In reply,} ~~be~~ posted in the office. ^{the learned counsel} ~~and rightly too~~ for the Respondents contends, that even now, the women have not been appointed to the Gang, they are only women ^{a new formation,} Khalasis, which is totally different from a Gangman. ^{by the Respondents}

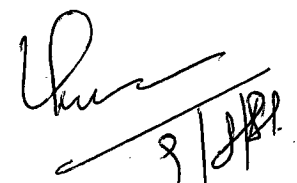
7 It is also stated, that as soon as the applicant joined at Chalakudi, she applied for a mutual transfer with K Ambujakshi, a woman Khalasis in PWI Trichur Section.

This has been allowed by the order dated 15.3.89 (Ext.R3).

The learned counsel for the Respondents contends that K Ambujakshi is not working in the office at Trichur. and the very fact that the applicant has sought a mutual transfer with her shows that the applicant has no objection to work as a woman Khalasi. ^{in any office} In any case there is no vacancy, where she can be appointed.

8 Having considered these facts, I am of the view that the Respondents are fully justified in stating that the applicant has to work as a woman Khalasi and that she cannot be appointed in the office because there is no vacancy for her either at Thalakudi or at Trichur. However, it appears that it will ^{for the present,} no longer be proper to make her work under the PWI Thalakudi considering the fact that these proceedings show that their relations will not be smooth. It is seen from Ext.R3 that the mutual transfer between the applicant and K Ambujakshi has been ordered. In pursuance of that order, ^{which apparently is still in force,} the applicant may now report to PWI Trichur Section in place of K Ambujakshi. However, the applicant will be paid wages for the period she worked under the PWI Thalakudi in pursuance of the interim orders passed in this case, ^{of} even that period be after the date of the Ext.R3 order.

9 With the aforesaid directions this application is dismissed.


(NV Krishnan)
Administrative Member
9.8.89

30-6-89

CCP-15/89 in
in ^{MP} OA-382/89 in OA 232/89

Crs N & NVB

Mr. VR Ramachandran Naik for the
petitioner

Smt. Sumathi Dandapani
for respondents

Heard. Counsel of the
petitioner. Notice to the respondents
in the Contempt petition (who is
said to be the 6th Respondent in the
O.A) to appear through Advocate
on 4.7.89

U L

30-6-89

4-7-89

SPM

Mr. R. Ramachandran Naik for applicant
Mrs. Sumathi Dandapani for respondents

Heard the learned counsel for both the
parties on the CCP and also on M.P-481/89 for
vacating the interim relief.

The learned counsel of the applicant
states that as many as 6 Khalasis under PUI,
Chalakyudi and more than 9 Khalasis under PUI,
Trichur are working in their respective
offices, even though they are held ^{as governor} in the
posts in the Gangas. The learned counsel states
that the applicant could have also ^{been} accommo-
dated in the office of PUI, Chalakyudi in
compliance of the direction of this Tribunal
on 22.6.89.

Before any further directions are given, the learned counsel of the applicant is directed to file reply within 2 weeks with a copy to the learned counsel of the respondents.

List for further directions on the M.P. and the CCP on 10.7.89.

SPM

SPM

4-7-89

Smt. Sumathi Dandapani for the respondent
V. R. Ramachandran Nair for the applicant

10.7.89

The learned counsel for the applicant has filed an affidavit regarding certain Khalasis working in office under PWI, Chalakudi and Trichur. A copy of the affidavit has been given to the learned counsel for the respondents today who desires to file a reply. She undertakes to file reply within one week with copy to the counsel for the applicant. List for further direction on M.P. and CCP on 12.7.89.

SPM
10.7.89

12.7.89

Shri K. Ramakumar-for applicant.

Smt. Sumati Dandapani-for Rlys.

SPM

Permanent Way Inspector Shri T.O. Antony is present today. He admits that for certain reasons relating to the merits of the order passed by this Tribunal on 22.6.89 he has not allowed the applicant to take over to assume duties in the office under him. The learned counsel for the respondents states that there is no post in the office of P.W.I. Chalakudi where the applicant could be posted. Be that as it may, the PWI is directed to comply with the order passed by this Tribunal on 22.6.1989 and allow the applicant to resume duty in the office until further orders. This should be complied with by tomorrow (13.7.89) and the learned counsel for the respondents is directed to report compliance on 13.7.1989 itself. The learned counsel for the respondents wants to file an application for review of the order dated 22.6.1989, ^{which is filed} it should be taken up along-with the M.P. No. 401/89 in which she has asked for the vacation of the interim order. This case may be listed for further directions on the C.C.P. on 13.7.1989. The P.W.I is also directed to be present in the Court tomorrow (13.7.1989) at 2.30 PM.

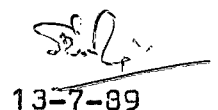

12.7.1989SPM

Mr VR Ramachandran Nair for applicant
Mrs Sumathi Dandapani for respondents
Mr TO Antony, PWI

The learned counsel for the railways, Smt Sumathi Dandapani states that the applicant has reported to duty and she has been accommodated in the office of PWI, Chalakuty in compliance of the orders passed by the Tribunal on 22.6.89. Accordingly the notice for contempt of discharge and the CCP ^{are} ~~is~~ disposed of as closed.

The learned counsel for the respondents states that she has filed an application for review of ^{the respondent's} ~~that~~ order dated 22.6.89 with a copy to the opposite side. Let the review application, if it is otherwise in order, be listed before Shri N.V. Krishnan, Hon'ble Member(A) on 18.7.89.

A copy of this order may be placed on the case file of OA-232 of 89.



13-7-89

13-7-89

Order Communicated on 18.7.89.

DO:
19/7

2x

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

~~C.A. No.~~
~~T.A. No.~~

RA 47/90 ~~199~~

in OA 232/89

DATE OF DECISION 1.6.92

K.K.Parwathy

Applicant (s)

Mr. N.C.Joseph

Advocate for the Applicant (s)

Versus

U.O.I. General Manager,
Southern Railway.

Respondent (s)

Smt. Sumathi Dandapani

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Administrative Member

The Hon'ble Mr.

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

This review application has been filed seeking a review of the order dated 9.8.89 passed by me in OA 232/89. It was placed before me on 29.3.91 but I had directed that the review application be kept pending in view of the judgment of the Supreme Court in Amulya Chandra Kalita Vs. Union of India and others [JT 1990(1) SC 558] holding that one Member sitting alone cannot decide an application filed before the Tribunal. However, in a subsequent case [Dr Mahabal Ram Vs. Indian Council of Agricultural Research and others (civil appeal No. 2381/91 arising out of SLP 6728/90)] the Supreme Court has observed that under the provisions of law, a Member of the Bench sitting alone can dispose of a case filed before the Tribunal subject to certain conditions stipulated in that judgment. The R.A. is, therefore, now taken for disposal.

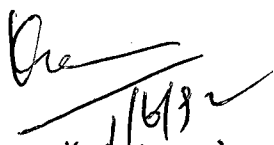
2. The applicant has also filed MP 266/90 dated 21.3.90 for condonation of delay which has occurred in the filing of this RA. The review applicant has stated that she had moved SLP 1478/89 before the Supreme Court and claims that during the course of the preliminary hearing after which the SLP was dismissed the Supreme Court observed that a review petition could be preferred before the Tribunal.

3. The original order was passed on 19.8.89. A perusal of the original record of the case shows that the aforesaid SLP was dismissed by the Supreme Court on 19.12.89. It is stated that the further delay is due to the fact that there was a change of counsel for which the consent of the former counsel was to be taken. The delay thereafter is explained and hence the MP is allowed and the delay condoned.

4. I am satisfied that this application can be disposed of without hearing the parties and I proceed to do so.

5. I have perused the application. The application does not bring out any error apparent on the face of the record which requires a review of the order. It therefore deserves to be dismissed. The only ground which merits consideration is the apprehension that in the light of the order passed, the applicant might have to continue to remain in the gang and the respondents might not give her an opportunity to work in the office, even if there is a vacancy therein.

6. While nothing has been produced to justify this apprehension, I have only to clarify that the respondents cannot construe the original order to stand in their way of giving engagement to the applicant in the office to do office work if there is scope for it. With this clarification this review application is dismissed.


(N.V. Krishnan)
Administrative Member
1.6.92

NVK

RA No 28/88.
MO A. 232/88

18/7/88

Present :- Jmt. Sum. the Dantapan - Counsel for
Reuo Applicant.

Sh. K. Ram Kumar, - Counsel for the
Respondent in RA.

Counsel for the Reuo Applicant heard.
Sh. K. Ram Kumar has taken notice of the application
and prays for time to file reply to the Reuo
Application. He may do so and send copy to
the Counsel of Reuo Applicant.

The O.A is complete in all respects
except for the permission sought by Counsel
of Respondent to file an affidavit sworn in by
P.W.I. Trichur in reply to the affidavit dated
10/7/88 filed by the applicant. As that affidavit
refers to the engagement of certain persons
in the O/O. P.W.I. Trichur, the permission sought
by the Counsel of respondent is granted. A copy
of the affidavit of P.W.I. Trichur may also be
handed over to the Counsel of applicant.

The O.A. will be finally heard on
28/7/88.



18/7/88