

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 265 of 91 ~~xxxx~~
~~xxxx~~

DATE OF DECISION 25-2-92

G. Mohanan Pillai & 9 others Applicant (s)

Shri P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India and 2 others Respondent (s)

Shri M.C. Cherian Advocate for the Respondent (s)

CORAM :

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

The Hon'ble Mr. N. Dharmadan, Member(Judicial)

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? Yes
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

N. Dharmadan, Member(Judicial)

The applicants herein are Mopila Khalasis working under the third respondent, in the scale of pay of Rs.210-290(pre-revised). The applicants were conferred with temporary status during 1983 and 1984. The applicants do not belong to Artisan category, which was subject to re-classification of different trades in 1979, 1982 etc. As a corresponding measure, the category of Mopilla Khalasis was reclassified as skilled grade in the scale of pay of Rs.260-400(950-1500 revised) by the order of Railway Board dated 11-4-85, Annexure A-1.

...../

2. The applicants filed this application for issue of directions to the respondents to implement the order at Annexure-I, by which the category of Mopilla Khalasi has been re-classified and treated as skilled grade in the scale of Rs.260-400(950-1500 revised).

3. The applicants rely on Annexure A-1 order which reads as follows:

"...As a result of discussion in the PNM Meeting which held on 27th and 28th September 1984, the Ministry of Railways have decided that all the posts of Bridge Erection Khalasis in scale of Rs.210-290 may be reclassified as skilled in grade Rs.260-400(AS)...."

It is discernable from the above letter that this order pertains to Bridge Erection Khalasis in the scale of Rs.210-290 which has been reclassified as skilled in the grade in the pay scale of Rs.260-400.

4. The respondent, Railway filed reply producing there in Exhibit R-1 and submitted that the order in question is about granting higher scale to Bridge erection Khalasis and no mention has been made in the order regarding Mophila Khalasis. However, they submitted that the Head Quarters of the Construction Wing of Southern Railway (Chief Administrative Officer, Madras) have sanctioned the grade of Rs.260-400 to Mopilla Khalasis, provided they are utilised in Bridge erection works. The order dated 1-12-88 of the Headquarters Office Works Construction Branch, Egmore, Madras reads as follows:

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"....Moppila Khalasis in semi-skilled grade may be treated as skilled and paid the scale of Rs.260-400(AS)/950-1500(RS) only for the period they are engaged in Bridge erection works.

Such of those Moppila Khalasis to be utilised in Bridge erection works should be trade tested before they are granted the skilled grade...."

Relying on the order cited the respondents submitted that the applicants have not been utilised in bridge erection works, after the said order and accordingly they are not being paid the said scale of Rs.260-400. The respondents further referred to OA 92/88, filed by persons who are similarly situated and submitted that the Tribunal ^{by} rejected the claim of the applicants therein for higher pay scale on the ground that they were not in a position to state before the Bench that on what basis the applicants are claiming the scale of pay.

5. We have heard the parties and gone through the documents carefully. It has been ~~xxxx~~ admitted by the respondents that the applicants were working as Mopilla khalasis. However they submit that the applicants have not been utilised in bridge erection works, after the said order and accordingly they are not being paid the said scale of Rs.260-400(950-1500)' in answer to the averment of the applicant in OA that 'the applicants like other Moppila khalasis are engaged on different duties like Bridge Erection work other miscellaneous works connected to Bridges loading unloading of heavy

articles etc.. The denial of the respondents in this regard has not been objected^t by the applicant by filing rejoinder.

6. Hence, in the circumstances we feel the interest of justice will be met if we direct the applicants to submit a detailed representation to the first respondent within two weeks from the date of communication of the judgment, and if such a representation is received, the first respondent shall consider the matter in detail and pass appropriate orders in accordance with law after duly verifying the records regarding all the claims of the applicant. If however, the first respondent finds that he is not competent to decide the representation finally, he is directed to re-transmit it to the Railway Board or other appropriate authority as the case may be for final decision. In either case, the final decision of the respondents shall be rendered within four months from the date of receipt of said representation of the applicants. This Tribunal in earlier occasion adopted same course of action in similar cases viz. OA 108/91 and OA 139/91 etc. We are inclined to follow our earlier decisions in this case also.

7. Accordingly, we dispose of this application with the directions stated in para 6 above. We make no order as to costs.

(N. Dharmadan)
Member(Judicial)

(S.P. Mukerji)
Vice-Chairman

SPM and

Mr P. S. Pillai

Mr M. C. Chevan

Learned Counsel for respondents seeks 3 weeks time for filing reply to the C.P. He may do so with a copy to the learned Counsel for petitioner, who may file rejoinder within a week. Post for final hearing on 4.9.92.

(ND)
6/8

(SPM)
6/8

PSM and

Mr G. Swan

Mr M. C. Chevan

At the request of learned Counsel for Rlys post on 7.10.92

(ND)
4/9

(PSM)
4/9

PSM & ND

Mr Sivan Pillai

Mr M. C. Chevan

Learned Counsel for respondents is directed to file statement inquiring compliance of the directions given by the Tribunal. Post on 9.10.92

(ND)

(PSM)

7/10/92

PSHM & ND

(14) Mr P Sivan Pillai
Mr MC Cherian

Learned counsel for the respondents submitted that he has filed a statement which is not before us. Post on 13.10.92.

(ND)

(PSHM)

9.10.92

SPM & ND

Mr. P.S. Pillai
Mr. TA Rajan

Learned counsel for respondents states that he has filed a statement in reply to the CCP. Accordingly, list on 22.10.92 for further direction.

(ND)

(SPM)

13.10.92

SPM & ND

Mr. P.S. Pillai
Mr. M.C. Cherian

~~XXXXXX~~ We regret to note ~~that~~ with concern that earlier the Chief Engineer (Construction) and Executive Engineer (Construction) submitted so many facts before us in their statement to the effect that the representations of the applicant had been disposed of. Learned counsel for respondents expressed his sincere regret about the error. The General Manager Southern Railway has since filed an affidavit before us dated 20.10.92 expressing his apologies for the delay in the disposal of the applicant's representation. A copy of the order passed by the General Manager dated 20.10.92 on the applicant's representation ~~has been~~ already submitted along with the clarification statement filed by the Chief Engineer on 21.10.92. From the order of the General Manager it appears that some more evidence is required from the applicant for verification of his previous service. Accordingly list this Cpe) for further direction on 29.12.92.

Copy by hand.

(N. Dharmadan) (S.P. Mukerji)
J.M. V.C.

22.10.92

Statement by Despatches
Filed on 7/10/92

Addl. statement by
Despatches Filed on 9/10/92

(20)

(23)

Compliance
statement by
respondent
has been filed on
20.12.92

Received today

Mr. Despatches
in SPM

Order issued
on 26.10.92

Adj'd. 20-1-93

(18) Mr P Sivan Pillai
Mr MC Cherian

Learned counsel for the respondents has produced a copy of the order dated 18.12.92 disposing of the representation of the petitioner as directed in the judgment of this Tribunal rendered in OA 265/91, copy of which has been made available to the petitioner also. Accordingly, the CP(C) is closed and notice discharged with liberty to the petitioner to initiate appropriate legal proceedings in case he ^{feels} is aggrieved by the aforesaid order.

(AV Haridasan)
Judicial Member

(SP Mukerji)
Vice Chairman

20.1.93

✓
F.O.
21/1
m 1300
f.o. issued
file closed
21/28/92