

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A No.375/92

Wednesday this the 23rd of February, 1994.

CORAM:

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR.P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K.Anilan,
Carpenter Khalasi,
Office of the Inspector of Works,
Southern Railway,
Trichur.

.. Applicant

By Advocate Mr.P.Sivan Pillai

vs.

1. Union of India through
the General Manager,
Southern Railway,
Madras-3.
2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum-14.
3. V.C.Radhakrishnan,
Carpenter Khalasi IOW/O/ERS
Through the Divisional Personnel Officer,
Southern Railway,
Trivandrum-14.
4. P.A.Bose,
Carpenter Khalasi PWI/O/ERS,
Through the Divisional Personnel Officer,
Southern Railway,
Trivandrum-14.

.. Respondents

By Advocate Mrs.Sumathi Dandapani (R1&2)

ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Applicant who is an 'Artisan Khalasi', claims preference over Respondents 3 and 4 in the matter of appointment as 'Carpenter Khalasi Helper'. Applicant as also Respondents 3 and 4, while working as non-Artisan Khalasis volunteered to become Artisan Khalasis. Admittedly, appointments to the post of Artisan Khalasi are made by calling volunteers from different sources, and then selecting them. Volunteers do not come from a homogeneous group, and come from heterogeneous backgrounds. Naturally, difficulties arise in assigning them placement in a common gradation list. Seniority concept becomes

relevant when Artisan Khalasis are to be considered for the next higher post of Carpenter Khalasi Helper. That is the situation here.

2. Applicant would say that Respondents 3 and 4 are juniors to him(as they joined the post of Artisan Khalasis later than him), and that overlooking his seniority, Respondents 3 and 4 have been sent for trade test for appointment to the higher post of Carpenter Khalasi Helper. The question that comes into sharp focus is, how the seniority is to be reckoned between people who come from different sources. According to counsel for applicant, para 312 of the Indian Railway Establishment Manual governs the issue, and according to counsel for respondents , para 320 governs the issue. On a close scrutiny, neither of the paragraphs squarely applies to the case. Para 312 is captioned "Transfer on request" and it says:

"Seniority of railway servants transferred on their own request from one railway to another should be allotted...."

"Note(i) This applies to the cases of transfer on request from one cadre/division to another cadre/division on the same railway" (emphasis supplied)

3. In the instant case, undisputedly there is no transfer from one railway to another or from one division to another. The only other case where this para applies is cadre transfer on request. The question to be considered is whether the applicant came into the cadre of Artisan Khalasi on request. Admittedly, this was not a case of transfer or transfer on request. They came on the basis of volunteering. Therefore, para 312 does not apply.

4. Now we refer to para 320. This paragraph is captioned "Relative seniority of employees in intermediate grade belonging to different seniority units appearing for selection/non-selection post in higher grade". As the caption shows, this paragraph does not apply to selection or non-selection posts, but to an intermediate grade, and determination

of seniority therein, for purpose of promotion to the next higher post. The grade of Artisan Khalasi is an intermediate grade into which volunteers come from different sources. It is not a higher grade. Paragraph 320 provides for this and it is the relevant paragraph for purposes of the case on hand.

5. We have to notice how this is to be done under para 320. Para 320 states that:

"...Total length of continuous service in the same or equivalent grade held by the employees shall be the determining factor for assigning inter seniority irrespective of the date of confirmation of an employee...."

Respondents would say that applying this principle, seniority has been determined in Exhibit R1 list. Applicant is ranked at SI.No.234, while Respondent No.3 at SI.No.196 and Respondent No.4 at SI.No.73. Applicant is shown to have 3480 days of service, while Respondent Nos.3 and 4 , 3731 and 4427 days, in that order.

6. Applying the principles in para 320, it has to be held that Respondents 3 and 4 with longer service take precedence over applicant. As we pointed out, of the two paragraphs, para 320 is appropriate in the context. Authorities were justified in treating respondents 3 and 4 as senior to applicant and deputing them for training.

7. Before we part from the case, we would like to point out that clarity and precision are virtues indispensable in framing rules. The rules in question cannot pride themselves with these virtues. There are posts of Artisan Khalasis, non-Artisan Khalasis, Khalasi Helper, A.C.Khalasis, Diesel Khalasis, Mechanical Khalasis, Electrical Khalasis, Carriage and Wagon Khalasis and so on. These are not expressions of uniform import. The expression 'Khalasi' signifies different imageries in different contexts. This contributes to confusion. Likewise, expressions like 'intermediate grade' without a precise definition thereof, also can

create problems. We say so, because, ordinarily intermediate grade signifies something between a higher and a lower grade. In the context of this case, we find that persons in a higher scale for reasons of convenience opt for the post of Artisan Khalasi. For example, Khalasi Helper in the scale of Rs.800-1150, is known to opt for a lower scale post of A.C.Khalasi in the scale of Rs.750-940, which is filled up by selection from volunteers. Gangmen also sometimes opt for this. This is not normal, in the case of officials seeking career advancement. So many misnomers, used at random, create more problems than they solve. The rule maker will do well to bear the counsel of Sir James Fitzjames Stephen:

"that in drafting it is not enough to gain a degree of precision which a person reading in good faith can understand, but it is necessary to attain if possible to a degree of precision which a person reading in bad faith cannot misunderstand."

8. We dismiss the application without costs.

Dated the 23rd February, 1994.


P.V. Venkatakrishnan

P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


Chettur Sankaran Nair

CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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