

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. O.A.375/89 199
T. A. No.

DATE OF DECISION 26.4.90

P.P.Madhavan & 2 others Applicant (s)

M/s

P.Santhosh Kumar &
P.Santhosh Kumar (T) Advocate for the Applicant (s)

Versus

Union of India & 4 others Respondent (s)

M/s M.C.Chcrian &
T.A.Rajan 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? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

(Shri S.P.Mukerji, Vice Chairman)

In this application dated 12.6.89 filed by the three applicants who have been working as Fitter-cum-Operator/Jamadar Tindal in the Creosoting Plant of the Southern Railway, Palghat have prayed that in view of their having passed the trade test their posts should be upgraded with effect from 1.1.84 in accordance with the Railway Board's circular dated 10.7.85 at Annexure-II. They have also prayed that their non-promotion should be declared to be discriminatory and the respondents directed to dispose of their representations at Annexures-III to VI. The brief

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facts of the case are as follows:

2. Having entered as a labourer the first applicant was promoted to Fitter-cum-Operator in the ^{Skilled} scale of Rs 260-400 with effect from 18.10.82. The second applicant was so promoted on 23.2.84. The third applicant was promoted as Jamadar Tindal in the scale of Rs 210-290 with effect from 1.8.78. While the post of Fitter-cum-Operator is in the skilled category, the post of Jamadar Tindal in the scale of Rs 210-290 is in the semi-skilled category. In the skilled category there are ^{still} two higher grades of Highly Skilled Gr. I ^(HS.I) in the scale of Rs 380-560 and Highly Skilled Gr. II ^(HS.II) in the scale of Rs 330-480. The Railway Board, in the process of re-classification of artisan staff, in order to give relief to unskilled and semi-skilled categories, directed vide their letter dated 10.7.85 at Annexure-II that in production units and workshops 70% of the posts in the unskilled category should be allotted to the semi-skilled grade of Rs 210-290 and ^{in HS.I, HS.II and skilled} the posts in the skilled category should be ^{in the} percentage of 30:35:35. In ESMs the ratio would be 50:30:20. It was also indicated that on re-classification, proforma ^{in the higher grades} promotions should be given with effect from 1.1.84 and current payments should be effected from 1.7.85. It was also indicated that promotions to upgraded posts would be given after ^{the} ^{of} passing the appropriate trade test. The grievance of the applicants is that having passed the

trade test along with others the results of which are all at Annexure-I, while 2 the 51 persons at Annexure-I have been given upgraded posts, the 3 applicants at Sl.No. 52 to 54 in that list have been singled out and have not been so far promoted. Their representations have brought forth no response.

3. The respondents have stated that the Creosoting Plant in which the applicants are working is a Unit by itself with only 6 sanctioned posts of artisans and no promotion beyond the scale of Rs 260-400 could be given unless posts in the higher grades are created. A reference was made to the Southern Railway Headquarters at Madras for sanction and pending the sanction the applicants were allowed to appear in the trade test in the Palghat Division. While in other units and departments promotions were made because of availability of posts ^{in higher grades} due to lack of sanction for creation of posts in the higher grades in the Creosoting Plant, the applicants could not be promoted. Finally, the respondents have stated that "the applicants can be promoted to the respective higher grades, on the basis of Annexure-I, as and when such posts are sanctioned either by upgradation or by creation afresh. The representations referred to in the applications have been received and they are under the active consideration of the respondents".

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4. We have heard the arguments of the learned counsel of both the parties and gone through the documents carefully. The circular of the Railway Board at Annexure-II does not warrant creation of ^{additional} posts in the higher scale. It allows re-classification of existing posts in the higher scale or lower scale, as the case may be, so as ^{grades} to conform to the ^{prescribed} percentage distribution of such posts in every classification unit. The respondents have stated that in the Creosoting Plant which is a separate classification unit, there are six sanctioned posts of artisans. In accordance with the re-classification order dated 13.11.82 as modified by the Railway Board's order dated 10.7.85 at Annexure-II, 60% of the posts would be in the skilled category ^{and} the remaining 40% of sanctioned posts would be distributed between semi-skilled and unskilled category in the ratio of 70% and 30% respectively. Within the skilled category, the posts should be distributed in the percentage ratio of 30%:35%:35% amongst Skilled Gr.I (Rs 380-560), Skilled Gr.II (Rs 330-480) and Skilled Gr.III (Rs 260-400). Based on this percentage distribution, of the 6 posts, 4 (3.6, i.e. 60% of 6) posts would be in the skilled category and ^(40% of 6) 2 posts would be in the semi-skilled/unskilled category. Amongst the 4 skilled posts, ^(30% of 4) 1.2 posts will be in Gr.I, ^(35% of 4) 1.4 posts

(35% of 4)
in Grade II and 1.4 posts in Grade III. Thus, at least
1 post should have been in the scale of Rs 380-560,
1 post in the scale of Rs 330-480 and 2 posts in the
scale of Rs 260-400. On this basis, the two applicants
who are already working in the scale of Rs 260-400
deserve to be promoted to the two higher posts in the
scale of Rs 330-480 and 380-560 and the third applicant
who is in the semi-skilled scale of Rs 210-290 is
entitled to be promoted to one of the two posts in the
Skilled Gr.III of Rs 260-400. The statement made by the
respondents in the additional counter affidavit dated
9.3.90 that with the introduction of pre-stressed concrete
sleepers and ^{thereby} the stoppage of wooden sleepers it has been
decided to close down the ^{Creosoting} Plant and re-deploy the staff,
should not make any difference in so far as entitlement
of the applicants to the higher grades with effect from
1.1.84 in accordance with Annexure-2 is concerned.


5. In the facts and circumstances, we allow this
application with the direction that the applicants 1 and 2
should be ^{considered to be} promoted to the grade of Rs 380-560/330-480
as the case may be, and the applicant 3 ^{considered to be} promoted to the
scale of Rs 260-400 in accordance with the Railway Board's
circular dated 10.7.85 with all consequential benefits
flowing therefrom without creation of additional posts,
but on the basis of the upgradation of the existing posts
in accordance with the re-classification orders dated

10.7.85 at Annexure-II.

6. There will be no order as to costs.


26/4/90

(A.V. Haridasan)
Judicial Member


26.4.90

(S.P. Mukerji)
Vice Chairman