

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Original Application No. 310 of 1992. A3

Umesh and 2 others

Applicants.

versus

Union of India & others

Respondents.

Shri C.A. Basir Counsel for Applicants.

Shri P. Kumar Brief Holder of Shri Anil Srivastava, Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. SRIVASTAVA, V.C
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

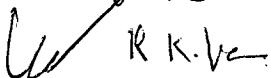
The applicants, 3 in number, have approached this Tribunal praying that although they have been screened in the year 1972-73 panel and they have worked on the post of Artisan in the grade of Rs 950-1500 in the different categories but they have been reverted to casual labours and the junior to the applicants who have been promoted as artisans be reverted and the opp. parties be directed to pay the applicants their grade/scale/pay of artisans and difference of pay. They have challenged the reversion order. The applicants 2 and 3 have been promoted again as artisans w.e.f. 27.12.90 and 6.12.91 and they became entitled to the difference of pay upto the above dates between the present posts and the post of Khalasi to which they were reverted. So far as applicant No. 1 is concerned,

he has prayed that his position being first in the seniority list issued by the opposite parties in the category of Painter grade Rs 260-400 when none of 1990 panel were in service mostly and after working for more than five years, he acquired the right to retain the post in the artisan category and prayed that the respondents be directed to regularise him.

2. Reversion of the applicants is said to have been done from the post of Artisan although the applicants who were engaged as casual labours, were screened in the year 1973 and thereafter appointed as Painter and continued to work. In the year 1990 they were replaced by the Khalasis who were screened much later to the applicants, as a result of which the applicants have been demoted and they were promoted. Although the matter was referred to Permanent Negotiating Machinery but nothing was done and, the applicants have challenged the reversion order on variety of grounds.

3. The respondents have tried to justify their action by stating that the panel of 369 persons of class IV was framed in the year 1973 and they were absorbed against the vacancies from time to time. Applicant No. 1 was absorbed against the permanent vacancy of Khalasi in the grade of Rs 196-232 in the year 1986 since the absorption was to be made according to rules in the initial grade. The applicant No. 2 was absorbed in the year ¹⁹⁸¹ ~~1991~~ on the post of Khalasi in the grade of 196-232 and was promoted as Artisan in the grade Rs 950-1500 and he is at present working as Carpenter on TLA basis.

Corrected by
order dt. 5-11-93
passed on M.P.-No.
5262/93.

 R.K.V.

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Subsequently the applicant No. 2 was promoted after qualifying the trade test of W/C Carpenter in the grade of Rs 950-1500, on 27.12.90. Applicant No. 3 was absorbed on the basis of seniority position in the panel declared in the year 1973 and he was put to work on ad-hoc basis in the grade of Rs 260-400 and he has therefore been working as casual labour basis at that time and which confers no legal right for promotion without absorption.

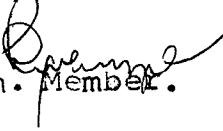
3. Admittedly, according to these respondents, these casual labours have attained the temporary status and according to the respondents all the casual labours have attained the temporary status at the time of screening and they have been screened in group D category. Applicant No. 3 was absorbed against the permanent vacancy in the year 1973 and his pay was fixed in the scale of Rs 196-232.

3. It is clear that the applicants were screened and absorbed. They were screened and absorbed in view of the fact that they were working in a particular post. For accommodating the juniors the applicants could not have been demoted/reverted. It is not a case of by way of punishment for those who were reverted. It was a case of accommodating juniors. But seniors could not have been made junior by accommodating juniors. In case they have appeared in the test and have failed,

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they should have been given more than one opportunity. It is for the Railway Administration to provide job to anybody but not after reverting those who are working for the last so many years and in these circumstances, the impugned order of reversion deserves to be quashed. In case examination is necessary, the applicants will be given two opportunities and in case they fail in the same, only then they will be reverted and without giving opportunity, they cannot be reverted. We are taking this view relying upon the judgment in Jetha Nand case decided by the Principal Bench of C.A.T in full Bench.

4. The application is disposed of as above. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated: 23.2.93.