

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

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Tr. Application No.58/88.

Asharam G.Rajput,
Pathan Chawl,
Tulasakar Wadi, M.G.Road,
Kandivali (W),
Bombay - 400 067.

... Applicant.

V/s.

Union of India through
S.Sarath,
General Manager, Western Railway,
Churchgate,
Bombay.

... Respondent.

Coram: Hon'ble Vice-Chairman, Shri U.C.Srivastava,
Hon'ble Member(A), Shri P.S.Chaudhuri.

Appearances:

Applicant by Mr.D.V.Gangal.

Respondents by Mr.P.R.Pai.

Oral Judgment:

¶ Per Shri P.S.Chaudhuri, Member(A) ¶ Dated: 13.8.1991.

This application has come to the Tribunal by way of transfer under section 29 of the Administrative Tribunals Act, 1985 from the City Civil Court, Bombay in terms of its order dt. 9.6.1988 S.C. Suit No.3169/83 which was lodged in it on 10.2.1983. In it the plaintiff (applicant) who is working as Electrical Track Bounding Fitter on Western Railway is challenging the action of the respondents in absorbing him as a Khalasi in 1962 instead of absorbing him as an Electrical Fitter on that date with connected and consequential reliefs.

2. We have heard Mr.D.V.Gangal, learned counsel for the applicant and Mr.P.R.Pai, learned counsel for the respondent.

3. It is not disputed that the applicant was engaged as

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a Casual Fitter in 1960 and that he was thereafter absorbed as a regular Khalasi in 1962. The applicant contends that his engagement in 1960 was after trade test, but the respondents ~~denied~~ this position.

4. The applicant based his case on para 2512(ii) of the Indian Railway Establishment Manual which reads as under:

"Casual labour engaged in workcharged establishments of certain Departments who get promoted to semi-skilled, skilled and highly skilled categories due to non-availability of departmental candidates and continue to work as casual employees for a long period, shall straightaway be absorbed in regular vacancies in skilled grades provided they have passed the requisite test to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. These orders also apply to the casual labour who are recruited directly in the skilled categories in workcharged establishments after qualifying in the trade test."


It is his contention that he was recruited directly in a skilled post and so when he was regularised in 1962, his regularisation should have been done as a skilled fitter and not as a Khalasi. We are not convinced by this line of reasoning. A plain reading of Rule 2512(ii) makes it clear that there are 3 conditions which are required to be fulfilled before any person can get the benefit asked for by the applicant under this rule. The first requirement is that he should have worked for a long period in the skilled category. By his own admission he has so worked for only two years. There is no way in which this can be deemed to be a long period. There is also no submission that after his absorption as a regular Khalasi he continued to work as a fitter, though designated as a Khalasi. Thus, we have no difficulty in holding that he had not worked as a skilled fitter for a long period prior to his regularisation. The second requirement that has to be met is that there should be no departmental candidates available for such promotion.

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There is no pleading from the applicant to this effect. On the contrary the respondents have specifically stated that this requirement was not met. It also has to be noted that after his regularisation as a Khalasi the applicant was subsequently promoted as a semi-skilled worker on 3.8.1968 and as a skilled Electrical Fitter on 3.10.1968. Against this background we have no difficulty in holding that there was no vacancy in the skilled category and that even if there was a vacancy there was no shortage of departmental candidates available for filling it up at the time the applicant was regularised as a Khalasi in 1962. Hence on this ground, too, the applicant does not come within the ambit of the abovementioned Rule 2512(ii). The third condition is that the person concerned should have been recruited directly in the skilled category after qualifying in the trade test. The respondents have denied that the applicant had qualified in a trade test at the time of initial engagement. The applicant has himself stated that he was called for and appeared for the trade test for a skilled post in 1967. There is no pleading to the effect that he objected to the trade test which is what ^{he} should have ~~done~~ had he been trade tested for the same post earlier. In view of this position, we are unable to hold that the applicant has ~~made~~ ^{met} the third condition envisaged in the above mentioned Rule 2512(ii).

5. In this view of the matter we see no merit in this Transferred Application and we are of the view that it deserves to be dismissed.

6. The Tr. Application is accordingly dismissed. In the circumstances of the case there will be no order as to costs.


(P.S. CHAUDHURI)
MEMBER(A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.