

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA No. 487 of 2005**

Date of order : 22<sup>th</sup> May, 2008

**C O R A M**

**Hon'ble Amit Kushari, Member [A]**

Prakash son of Shri Bishun Ram, Khalasi Helper, Marshalling Yard.  
 E.C. Railway, Gaya aged about 47 years resident of Chhotiki Delha  
 Railway Quarter Out House No. 28 P.O. Delha District – Gaya.

Applicant.

Vrs.

1. The Union of India through General Manager, E.C. Railway, Hajipur, Vaishali.
2. Divisional Railway Manager, E.C. Railway, Mugalsarai District – Chandauli.
3. The Divisional Mechanical Engineer, E.C. Railway, Moghalsarai, Chandauli.
4. Assistant Mechanical Engineer [C&W], E.C. Railway, Coach Maintenance Kharkhura Bairagi at Karimganj near Nayarath Academy Gaya.
5. The Carriage & Wagon Superintendent E.C. Railway Sick Line Near New Malgodown.

Counsel for the applicant : Shri Sudama Pandey with Shri S.K. Singh  
 Counsel for the respondents : Shri R.N.Choudhary, ASC

**ORDER**

**Amit Kushari, Member [A] :-**

The applicant was initially appointed as a Safaiwala in the Eastern Railway in 1976. In 1992, he was promoted as Khalasi Helper in the pay scale of Rs. 800-1150 [upgraded to Rs. 2650 – 4000 with effect from

*Am*

1.1.1996]. He worked uninterruptedly as Khalasi Helper since 1992. He faced a problem in June, 1998. His immediate superior officer in Eastern Railway, Gaya debarred him from working as Khalasi Helper and also asked him to work as a Safaiwala. The applicant took this as a demotion and as a personal insult. Therefore, he refused to work as a Safaiwala. He used to go to the office everyday as per his own statement and would wait for being allotted some work as Khalasi Helper. The authorities, however, did not relent. He remained idle in the office and did not draw any salary. Seeing no other alternative left, he moved the Central Administrative Tribunal, Patna through O.A. No. 201 of 1999. The OA was decided on 28.2.2002 and the order mentions that :-

“The basic prayer of the applicant is that he should be allotted the duties/works of Khalasi Helper which he performed from 1992 to 1998. So far as salary question is concerned, the applicant is at liberty to pursue the matter with the respondents through representation. We direct the respondent to allot the duties to the applicant which he performed from 1992 to 1998.”

2. In compliance to this order of the Tribunal, the Divisional Mechanical Engineer wrote to the Senior Section Engineer [C&W], Gaya to allow the applicant to work as a Khalasi Helper with effect from 26.4.2002. Thereafter, the applicant started his work as a Khalasi Helper



and also gave a representation on 17.6.2002 seeking release of his salary and allowance for the period 7.6.1998 to 25.4.2002 during which period he remained idle. The applicant also met the respondents in person and vigorously chased the authorities but neither he got the salary and allowances nor he got the other benefits like consequential bonus, yearly increments, promotions etc, as a result, he has filed this O.A. In between he had also filed an O.A. No. 294 of 2003 which was disposed of on 6.5.2003 at the admission stage itself with the direction to the Divisional Railway Manager, E.C. Railway, Mugalsarai to look into the matter with regard to the representation dated 17.6.2002 within a period of three months and pass speaking and reasoned order in accordance with law. The speaking order was issued on 11.3.2004 and the authorities disposed of the matter saying that the railways had taken a policy decision on 5.11.1996 that category of Safaiwala will continue to discharge duties and responsibilities as Safaiwala even on promotion as Senior Safaiwala in cadre restructuring in the scale of Rs.775-1025. The cadre restructuring came into effect from 1.3.1993. The applicant has challenged this order [Annexure-A/10] in this O.A.

3. The learned counsel for the applicant Shri Sudama Pandey and Shri S.K. Singh while arguing on behalf of the applicant point out that the cadre



restructuring came into effect from 1.3.1993 whereas the applicant had been formally promoted as Khalasi Helper in December, 1992. When the cadre restructuring came he was never designated as Senior Safaiwala and he continued to work as Khalasi Helper since 1992 – till June, 1998. His case, therefore, does not come in the scheme of cadre restructuring and the arguments given by the respondents in the speaking order at Annexure-A/10 are fallacious.

4. The learned counsel for the respondents Shri R.N. Choudhary draws my attention to Railway Board order dated 11.2.1997 which says as follows :-

“It is to be ensured that the Safaiwalas in the Khalasi Helper grade should perform the same duties as performed by the Safaiwalas in the lower grade as they have been promoted to the erstwhile semi-skilled grade as a result of reclassification. In the last fifteen years a large number of posts of Safaiwalas in the lowest grade have been upgraded from the Khalasis to Khalasi Helper grade as a result of reclassification/restructuring exercise. In the reclassification orders issued by the Railway Board's letter dated 13.11.1982, it has been specifically laid down that even after such upgradation these staff will continue to perform unskilled functions of simple manual work

*du*


like loading and unloading, <sup>10</sup>weeping of floors and transportation of materials etc. in their respective trades and that these guidelines should be borne in mind while upgrading any unskilled grade to semi skilled grade under these orders. Even though some posts in higher scale of pay have been introduced as a result of reclassification, the basic functions, duties and responsibilities attached to these posts at present will continue to which may be added such other duties and responsibilities as considered appropriate".

5. I have carefully considered the arguments of both sides. I fully appreciate the logic given by the respondents that up-gradation made by the cadre restructuring do not necessarily change the nature and duties of the employees. If a safaiwala has been upgraded as a result of cadre restructuring he cannot say that he will cease to work as Safaiwala just because he has got a new pay scale and designation. However, this logic of the respondents is not exactly applicable to the present applicant. The cadre restructuring came into effect from 1.3.1993. The applicant was promoted in the grade of Khalasi Helper in December, 1992. His promotion order does not mention that he is promoted as a Senior Safaiwala or that this promotion is as a result of cadre restructuring. From the promotion order it seems that he had been promoted on a regular basis.

*ju*

This is further strengthened from the fact that he has worked as a Khalasi Helper uninterruptedly from 1992 to 1998.

6. I, therefore, find enough logic in the argument of the applicant that he could not have been forced to work as Safaiwala in the year 1998. The fact that he remained idle from 1998 onwards is not a fault on the part of the applicant – rather it is due to a wrong interpretation of rules by the respondents. This Tribunal has already directed in the year 2002 that the applicant should be allowed to work as a Khalasi Helper and not as Safaiwala. This also fortifies the view that the action of the respondents was wrong. The Tribunal had directed that his representations regarding pay should be settled through speaking order. The speaking order was also issued on the same wrong interpretations of rules. The speaking order which is the impugned order here is, hereby, set aside. This O.A., therefore, succeeds. The respondents will grant full pay and allowances to the applicant for the period June, 1998 to July 2002 along with other consequential benefits. All the payments should be made to the applicant within three months of the receipt of this order. No costs.

  
[ Amit Kushari ]  
Member [Admn.]

mps.