

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 1132/96

the 7<sup>th</sup>. day of MARCH 2002

CORAM: Hon'ble Shri Gopal Singh, Member (A)

Hon'ble Shri S.L. Jain, Member (J)

1. Ravinder Prasad Singh
2. Jagrup Nandlal
3. Simon George
4. Takat Singh
5. Raman Keshav
6. Dinesh Rodka (SC) ....Applicants.

All the applicants are working as Sr. Khalasi in the pay scale of Rs. 800 - 1150 under Respondents in Balsad in MTW Department of Western Railway.

By Advocate Ms. N.V. Masurkar.

V/s

1. Union of India through  
General Manager,  
Western Railway  
Head Quarter, Church Gate,  
Mumbai.
2. Chief Engineer  
Western Railway,  
Head Quarter  
Church gate, Mumbai.
- 2A Divisional Railway Manager (E)  
Western Railway,  
Bombay Central, Bombay.
3. C.T.E. Chief Track Engineer (TM)  
Western Railway, Head quarter  
Churchgate, Mumbai.
4. Dy. Chief Engineer (TMC)  
Western Railway, Balsad,  
Gujarat State.
5. Anil Kumar Pandey (Khalasi)  
Under CFO: TT Balsad

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6. K.P. Gupta CFO(ZMC)
7. Raginder Singh (Khalasi)
8. Hari Mohan (Khalasi)
9. Prahlad Singh
10. Captain Singh
11. Ashok Hurchandi
12. Madan

All working under CFO, Western  
Railway, Balsad.

...Respondents.

By Advocate Shri A.I. Bhatkar.

ORDER (ORAL)

{Per Gopal Singh, Member (A)}

This is an application under Section 19 of the Administrative Tribunals Act 1985. The applicants, six in number, have prayed for as under:

(a) that it be declared that any direct recruitment to the post of Senior Khalasi in the pay scale of Rs. 800 - 1150 is dehorse the rules (Notification dated 1.5.91, Annexure (a-1) hereto and hence direct recruitment shown in seniority list dated 7 - 14.3.96 be held illegal null and void and accordingly be quashed and set aside.

(b) that further promotion of direct recruit to the post of Mechanic Fitter in the pay scale of Rs. 950 - 1500 or the basis of seniority list dated 7-14.3.96 be held illegal null and void and accordingly be quashed and set aside.

(c) that it be held that applicants are entitled to be promoted and be given pay scale of Sr. Khalasi the pay scale of Rs. 800 - 1150 from 1993 when the official respondents resorted to direct recruitment dehorse the rules and accordingly applicants are entitled to get arrears of the same with prevailing rates of interest thereon also entitled to fresh seniority accordingly and or consideration for promotion with retrospective effect.

(d) that it be declared that direct recruits have no right title and interest to the post and hence they are not entitled for promotion to the post of Mechanic Fitter in the pay scale of Rs. 950 - 1500 in supercession of the applicants.

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*C. P. Singh*

(e) to hold and declared that the applicant are entitled to all consequential benefit such as pay fixation seniority and promotion.

2. The applicants' case is that they were appointed as Casual Labour in respondents department and they were given temporary status. In the year 1985 they were screened and in the year 1991 they were appointed as Khalasi in the scale of Rs. 750 - 940. They have further been appointed as Senior Khalasi in the scale of Rs. 800 - 1150 vide respondents order dated 18.9.1996. The applicants contention is that the new cadre of Mechanised Trade Work Khalasi (MTWK) was issued on 1.5.1991 in Engineering Department. The Trade Mechanic Organisation (TMC) issued avenue of promotion of various cadres. It ~~is~~ <sup>h</sup> provides <sup>h</sup> for promotion to the post of Mechanised Trade work Khalashi (MTWK) in the scale of Rs. 800 - 1150 from <sup>v</sup> amongst Gangman or from Screened Casual Labour through special scsreening. The applicants contention is that <sup>h</sup> ~~inspite~~ <sup>instead</sup> of appointing them as Mechanised Trade Work Khalashi in the scale of Rs. 800 -1150, respondents department had gone ahead for filling up the post by direct recruits ignoring their claims. Hence this application.

3. In the counter, contention of the applicants have been denied by the respondents. It is stated that Railway Board letter dated 14.9.1989 (Annexure R 1) provided to fill up the existing vacancy in Group 'D' post through ITI or Course completed Act Apprentices<sup>h</sup> in the relevant trade as one time exception. It was also provide therein that Casual Labour of any department possessing the prescribed ITI / Act Apprentice

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qualification may also be allowed to apply for the said post. These instructions were issued as one time <sup>exception</sup> but continued thereafter on a regular basis vide Railway Board letters dated 11.3.1993 and 13.3.1996. It has therefore been averred by the respondents that the applicant could not be considered for appointment as Senior Khalasis in the pay scale of Rs. 800 - 1500 in view of this direction of the Railway Board. It appears that circular issued by the Chief Track Engineer sometime in April 1991 was not in consonance with the direction given by the Railway Board and hence it cannot be taken cognisance of. It has been submitted by the respondents that the applicant has no case and the application is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records.


5. Apparently avenue of promotion in Mechanized Trade Work Khalasis indicated in the circular issued sometime in April 1991 of Chief Track Engineer (TMC) was against the directions of the Railway Board issued in the year 1989 for filling up the post in this organisation. The Railway Board instructions of 1989 were further circulated in 1993 and 1996. In that view of the matter avenue of promotion circulated in the month of April <sup>1991</sup> by the Chief Track Engineer would stand superceeded if not immediately at least by <sup>1993 when</sup> ~~1993~~ new circular from Railway Board <sup>was issued</sup> and in this view of the matter the applicants could not have <sup>seen &</sup> extended the

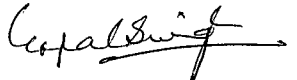
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benefit of avenue promotion circular issued in April 1991 by the Chief Track Engineer. It was wrong on the part of respondents department who have issued the circular in April 1991. It is also brought to our notice that options were obtained from Casual Labour in this regard which were ultimately <sup>not</sup> acted upon. In the light of the instructions issued by the Railway Board we cannot allow the prayer of the applicants for their appointment as Khalasi from 1991 onwards and put them in the seniority list above direct recruit. Accordingly we pass the following order.

6. The OA is dismissed. No order as to costs.

  
(S.L.Jain)  
(Member (J))

  
(Gopal Singh)  
Member (A)

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