

V

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

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Original Application No: 156/91.

Names of the parties:

DATE OF DECISION: 8/9/94

Chhabudada Dhomse, Petitioner

Shri K. M. Notaney, Advocate for the Petitioner

Versus

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Union Of India & Others, Respondent

Shri J. G. Sawant, Advocate for the Respondent(s)

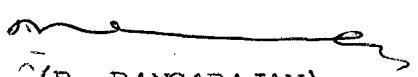
CORAM :

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The Hon'ble Shri B. S. Hegde, Member (J).

The Hon'ble Shri R. Rangarajan, Member (A).

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

  
(R. RANGARAJAN)  
MEMBER (A).

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BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A . NO.: 156/91.

Chhabudada Dhomse ... Applicant

Versus

Union Of India & Others ... Respondents.

CORAM :

Hon'ble Shri B. S. Hegde, Member (J).

Hon'ble Shri R. Rangarajan, Member (A).

APPEARANCE :

1. Shri K. M. Notaney,  
Counsel for the Applicant.
2. Shri J. G. Sawant,  
Counsel for the respondents.

JUDGEMENT :

DATED : 8/9/94

I Per. Shri R. Rangarajan, Member (J) I.

The facts of the case are as follows :

1. The applicant is presently working as a Regular Group 'D' Khallasi from 27.10.1986 in Electrical Branch of Central Railway. He was initially engaged as a Casual Labourer Khallasi on and from 15.11.1978 under Traction Foreman Sub-Station (Construction), Central Railway, Kurla. He was further engaged as a Casual Labourer monthly rated Fitter with effect from 19.02.1982 to 26.10.1986 in the skilled category. His services were regularised under the decasualisation



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programme as a Regular Khallasi Unskilled with effect from 27.10.1986. The applicant alleges that he is eligible for consideration for the post of Regular Group 'C' Artisan against the 89 decaualised post of Fitters sanctioned by the Railway Board and communicated by the Chief Personnel Officer as per his letter No. HPB/225/3/R/Decasualisation dated 20.10.1989. He has represented against this but his grievance was not entertained. Hence, he has filed this O.A. praying for a direction to pay the increments in the grade of Rs. 950 - 1500 (RPS) from 26.10.1986 till date treating him as a Skilled Fitter and pay the arrears alongwith interest @ 12%. He also prays for a direction to assail his seniority over juniors who have been promoted overlooking him.

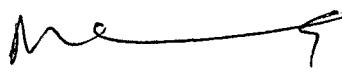
2. The Learned Counsel for the applicant relied on the judgement of this Tribunal in O.A. No.327/90 decided on 07.10.1991 to state that he cannot be deprived of the scale merely because he was regularised on a lower scale and the Tribunal in that O.A. directed the respondents therein to consider the applicant also for regularisation on the higher scale in respect of which panel was prepared in the year 1990.

3. In a similar case in O.A. No.121/91 decided on 10.03.1994, this Tribunal had held that the applicant therein had no right to be considered for regularisation in Group 'C' Artisan category, against direct recruitment quota earmarked for Casual labourers, after he has been regularly absorbed in Group 'D' category, even if his juniors in the erstwhile Casual Labourer Fitters category were absorbed as a Fitter against the direct

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recruitment quota if they continued to be Casual labourers. In this O.A., also no material has been placed before us to show that his juniors in the Casual Labourer Artisan category were promoted as Regular Artisan, ignoring his claim before he was regularly absorbed as Khalasi in Group 'D' Service. The applicant herein is placed in identical situation as the applicant in O.A. No. 121/91. The Learned Counsel for the applicant in O.A. No. 121/91 had also relied in the judgement of this Tribunal dated 07.10.1991 in O.A. No. 327/90, but we differentiated the case of the applicant in O.A. No. 121/91 with that of the applicant in O.A. No. 327/90. The reason given for differentiation of the applicant in O.A. 121/91 from the applicant in O.A. No. 327/90 holds good in the case of the applicant herein also. Hence, we reject the contention of the Learned Counsel for the applicant herein that he is similarly placed as that of the applicant in O.A. No. 327/90. The applicant herein is placed exactly in an identical position as that of the applicant in O.A. 121/91, which was decided on 10.03.1994.

4. As the case of the applicant in O.A. No. 121/91 was dismissed for reasons mentioned therein, we see no reason to differ from the reasoning given for dismissal of the O.A. in the case of the applicant in the present O.A. also as he is similarly situated as that of the applicant in O.A. 121/91. Following the same reasoning, we dismiss the present application also. There will be no order as to costs!



(R. RANGARAJAN)  
MEMBER (A)



(B.S. HEGDE)  
MEMBER (J)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: BOMBAY BENCH ::

R.P.No.143/94 in  
O.A.No.156/91.

Date:

28th APRIL 1995

Chhabudada Dhomse .. Applicant

v/s.

Union of India & Others .. Respondents

Coram: Hon'ble Shri B.S.Hegde, Member(J)

Hon'ble Shri R.Rangarajan, Member(A)

TRIBUNALS ORDER: (By Circulation)  
(Per: R.Rangarajan, Member(A))

1. The applicant in O.A.No.156/91 has filed this R.P. OA 156/91 was filed by the applicant praying for his promotion as Fitter and assigning him seniority in the cadre of Fitter over juniors. That application was rejected by order dt. 8.9.1994. Against this order this R.P. is filed.

2. The main contention of the applicant in this R.P. is that the applicant should be promoted as Fitter even if he had been regularised in Group 'D' cadre as was done in the case of applicants in O.A.No.327/90 decided on 7.10.1991.

3. In a similar OA bearing No.121/91 which was decided on 10.3.1994 this Tribunal had clearly differentiated the case of the applicant in that OA to that of the case of the applicant in OA 327/90. For the reasons stated in the Judgment, OA 121/91 was dismissed by order of this Tribunal dt. 10.3.1994. O.A.No.156/91 was also decided based on the judgment in OA 121/91. The Review Petition filed against the Judgment in OA 121/91 was also dismissed by order dt. 1.9.1994 for the reasons stated therein.

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4. The contention raised in R.P.No.143/94 in OA No.156/91 is also on the same lines as that of R.P.No.78/94 in OA 121/91. No new points have been brought out in this R.P. except saying that the seniority list of the employees in that unit should have been scrutinised to ascertain whether any of the junior to the applicant has been posted in the skilled post held by the applicant. We had clearly stated in our Judgment that the applicant having chosen to come to Group 'D' post has no right to claim to be posted as Fitter even if his juniors working as Casual Labourer Fitter was posted against the post of Fitter against direct recruitment quota. Hence calling for the seniority list will serve no purpose.

5. It is further contended by the applicant that the Tribunal had ignored the ratio of the dictum laid down by the Supreme Court and the rules and regulations framed by the Railway Board in this connection. The Supreme Court decision 1992 (SCC (L&S) 823 ) Rajesh Kumar Soni and Ors. vs. Ministry of Environment & Forest and Wild Life and Ors. ) filed by the applicant along with RP does not help the petitioner. It has been clearly stated in that judgment of the Supreme Court that the applicant should initially be absorbed against Group 'DI' posts and as and when permanent opportunity against Group 'C' posts opens up, they should be considered as per recruitment rules. The judgment in the present OA in no way ignores the judgment of the Supreme Court quoted above. The applicant has not stated any other Supreme Court cases other than what we had been cited above.

6. The rules and regulations of the Railway Board filed along with this R.P. were perused. None of the circulars support the contention of the applicant.

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6. In view of what is stated above, R.R. fails and accordingly it is dismissed. No costs.

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(R.Rangarajan)  
Member (Admn.)

B.S.Hegde  
( B.S.Hegde )  
Member (J)

Dated 28/4 April, 1995.

Grh.