

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 382/91

Transfer Application No:

DATE OF DECISION: 21.9.94

Ashok Baban Hulayle Petitioner

Shri B.K. Talreja Advocate for the Petitioner

Versus

Union of India and others. Respondent

Shri Subodh Joshi Advocate for the Respondent(s)

CORAM :

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

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

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

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

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 382/91

Ashok Baban Hulavle
V/s

... Applicant.

Union of India through
The General Manager,
Central Railway,
Bombay VT.

Divisional Railway Manager,
Central Railway, Bombay VT

Divisional Electrical Engineer,
Central Railway, Lonavala. ... Respondents.

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

Hon'ble Shri M.R.Kolhatkar, Member (A)

Appearance:

Shri B.K. Talreja, counsel
for the applicant.

Shri Subodh Joshi, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 21.9.94

(Per Shri B.S.Hegde, Member (J))

On the last occasion, the respondents
were directed to produce seniority list of Khalasis.
They have not furnished the same. The learned counsel
for the applicant has furnished a copy of seniority
list of Motor Driver. The applicant has joined as
Khalasi in 1974 and his name has not shown in the
seniority list of Khalasis. Shri P.B. Bhosale has
joined in 1983 and promoted to the post of Motor
Lorry Driver in the year 1986 who is junior to him
as Khalasi. In this connection the learned counsel
for the applicant has drawn our attention to R I
dated 27.6.83, wherein the applicant has been
directed to officiate as Jeep Driver with effect
from 27.6.83. Similarly R II dated 1.8.83 states
that Shri Chandras D.Parab, Motor Driver
grade Rs. 260 - 400 arrived on transfer from SS PR

vide L.No. MTS/F76/ dt. 30.7.83, is posted vide
Shri V.D. Bhosle, Motor Lorry Driver Gr. Rs.260 - 400(RPS)
retired with effect from 1.8.83. The learned counsel
for the applicant further submits, that the work charged
~~cannot be~~
~~status~~ continued in the higher post for a period of
6 months, whereas the applicant had worked for more
than 7 years. And the reversion order does not indicate
why the applicant has reverted as Khalasi by order
dated 19.2.90.

In the circumstances, prayed for quashing
the order dated 19.2.90. The learned counsel for the
respondents had drawn our attention to the decision
of the Tribunal dated 10.8.92 in QA 580/92, wherein
it has been observed that as long as a regular class IV
employee holds a lien on a Khalasi's post, a casual
employee appointed to that post because the holder of
the post is promoted on a casual basis to a higher post,
cannot have any right for regularisation in that post
and as such, no administrative difficulty should come
in the way of such arrangements. In any case, a
casual worker who has worked on a post for a long
period should have a better claim to continue in that
post even after regularisation on a lower post, than
his junior who is yet to be regularised in the lower
post or an outsider proposed to be directly recruited
on a casual basis to the higher post. In the
above case, the applicant continued to work on purely
casual basis in the higher post of Driver until a
regularly selected candidate is available or until
the contention exists for that post whichever is earlier.
Keeping that ratio in view in the instant case, the
applicant has been promoted from Khalasi to Motor
Lorry Driver, from 27.6.83 and allowed to continue

till 19.2.90. Shri P.B. Bhosale was joined subsequent to the applicant. Shri Bhosale has been appointed as Khalasi on 5.4.83 and has promoted as Motor Lorry Driver on 30.10.86. In O.A. 580/92 decided by the Tribunal on 10.8.92, the applicant was working as Motor Lorry Driver on daily wages. Whereas in the instant case the applicant was working as Khalasi for a period of 7 years. In the circumstances, reversion order passed by the respondents on 19.2.90 to be quashed and set aside and the respondents are directed to allow the applicant to work as Motor Lorry Driver from the date of reversion. The respondents are directed to restore the applicant to the post of Motor Lorry Driver from 19.2.90. The respondents are directed to pay the difference in pay from the date of reversion.

O.A. is allowed and the same is disposed of accordingly.

M.R.Kolhatkar

(M.R.Kolhatkar)
Member (A)

B.S.Hegde

(B.S.Hegde)
Member (J)

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