

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY:1

Original Application No. 1035/92 and 1045/92

Original 1035/92
Tuesday the 19th day of January 1999

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member (A)

Lukas Francis

Jamnadas Baiju

Popat Ananda

Deepak Keshav

Pradeep Laxman

Sahebriaao Kashinath

Ashok Haridas

Shriram Mithailal

Nivruti Karbhari

Suresh Shankar

Deshmukh Nisar Chhotu

Ashok Yeshwant

Rammilan Lukai

Niranjansing Deptising

Suresh Madhavrao

Zipru Daulat

Pandit Namdeo

Ashok Vittal

Murlidhar Anandrao

Arun Bhaiyalal

Sharad Shankar

Salimkhan Husenkhan

Ramesh Namdeo

Jiwan Pandharinath

Deepak Madhavrao

Dhondiram Narayan

Kailas Waman

Parsram Gabaji

Satish Madhukar

Prakash Kashinath

Ashok Bagawan

All the Applicants are working as Semi Skilled artisans under the Assistant Bridge Engineer, Manmad, working site at Jhansi.

**C/o Sahebrao Kashinath
Gadar Shop, Juna Nagpur Road,
Shivneri Nagar, Post, Manmad
Dist Nasik, Taluk Nandgaon.**

**... Applicants in
OA 1035/92.**

Pratap Kisan

Sunil Ramchandra

Ganpat Dhondiba

Walmik Namdeo

Mahendra Sonu

Arvind Jagannath

Chandrashekhar Bansantilal

Murlidhar Laxmanrao

Sudhakar Parashuram

Balkrishna Murlidhar

Milind Kerbhari

Ramdeo Kishan

Raghunath Baburao

Prabhakar Bhaulal

Hiraman Gajeram

Sitaram Laxman

Suhas Santosh

Deelip Pandharinath

Sampath Nivruti

Upendrakumar Sinha

Pundlik Chindha

Bhaskar Kachroo

Hengraj Bhaiyalal

Mohd, Aslam Raja

Kisan Shivram

Yunus Gulabkhan
Sunilkumar Bhagwandas
Nana Tukaram
Sudhakar Kashinath.

All the Applicants are working as Khalasis under the Assistant Bridge Engineer, Manmad working site at Jhansi.

C/o Pratap Kisan
Gardar Shop
Junal Nagpur Road,
Shivneri, Nager,
Dist. Nasik, Taluk Nandgaon
Post Manmad.

... Applicants in
OA 1045/92

By Advocate Shri D.V.Gangal.

v/s.

Union of India through
General Manager Central
Railway.

The Divisional Railway Manager
Central Railway Bhusawal

The Chief Personnel Officer
Central Railway
Bombay V.T.

The Chief Bridge Engineer
Central Railway, Bombay VT

The Chief Engineer Bridges
Construction, Central Railway
Bombay VT

The Chief Workshop Manager
Bridges Workshop
Central Railway, Manmad.

... Respondents.

By Advocate Shri S.C.Dhawan.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

These are two applications filed under Section 19 of the Administrative Tribunals Act 1985. The respondents have filed reply opposing the applications. We have heard the learned counsel for both sides. Since common questions arise for consideration, both the O.As are disposed of by common order.

2. The applicants were working as Casual Labourers in Construction Organisation of the Central Railway (Bridge Department). The applicants in O.A. 1035/92 are semi-skilled Casual Labourers and applicants in O.A. 1045 are un-skilled Casual Labourers. All the applicants came to be regularised as per the Railway Board circular and they were absorbed and regularised as Gangmen in Central Railway in 1989. In 1992 both the O.As are filed for quashing of the order of appointment of the applicant as Gangmen and for other consequential reliefs.

The respondents have filed reply opposing the application and justified the action taken by them in respect of the applicants.

3. In view of the subsequent development brought to our notice and the new prayer now pressed before us, it is not necessary to consider all the other allegations in the pleadings. Now it is brought to our notice that during the pendency of the O.A. the applicants themselves have moved this Tribunal by filing an M.P. for a direction to the respondents to consider the case of the applicants for regularisation and absorption in the Stores organisation. This Tribunal only directed that the administration may consider the case of the applicants as per rules. It appears that during the pendency of the case all the applicants are regularised and absorbed in Stores organisation. Therefore the main prayer that the appointment of applicants as Gangmen should be set aside, in view of the regularisation and absorption of applicants in both the cases as Khalasi in Stores organisation, ~~does not~~ ^{is} ~~survive~~ According to the records, the applicants who were

originally absorbed as Gangmen have been given charge of department namely shifted to Stores organisation on the request of the applicants.

4. At the time of argument the learned counsel for the applicant prays only one point namely that the administration should be directed to consider the case of the applicant for being absorbed and regularised in bridge organisation, relying on Railway Board circular dated 11.9.1986. The learned counsel for the respondents submitted that since the applicants have already been regularised and have even been shifted to Stores organisation on their request, now the question of the applicants being regularised in the bridge organisation does not arise and if the applicants want change of department they have to make out a fresh case according to rules.

5. After hearing both the counsel, we find that the applicants were regularised and absorbed as Gangmen and now during the pendency of the O.A. they have been shifted in the stores organisation as Khalasi. Therefore the question of following the Railway Board circular dated 11.9.1986 does not arise, since the applicants have already been absorbed and subsequently shifted to Stores organisation.

The learned counsel for the applicant relies upon the decision reported in 1991(18) ATC 193 (E.Appukutty and Others V/s. Union of India and Others) wherein the Ernakulam Bench gave a direction that since the applicants are not willing to be posted as gangmen against the regular vacancies, the applicants should be retained as casula workers with temporary status in the existing categories and considered for direct entry in the skilled category against the promotion quota

and so long as they are not absorbed, the applicants will be at liberty to continue in the existing scales in the skilled/semi-skilled category or join as regular gangmen without prejudice to their being considered for regular absorption in the skilled/semi-skilled category. In our view this decision has no application to the facts of the present case. The applicants on their own volition got themselves transferred from the post of Gangmen to Khalasi in Stores organisation. Therefore the request was considered during the pendency of the O.A. If the applicant wants change of department they have to file fresh O.A., since a fresh cause of action which has arisen during the pendency of the O.A. It is open to the applicants to make representation to the respondents for change of department under the rules and it is for the administration to consider the same. Then ultimately the applicants can take legal steps, if any, according to law.'

6. We may also notice that the applicants were working as gangmen from 1989. They approached this Tribunal only in 1992 for quashing the same. Then during the pendency of the O.A., on their own volition got themselves transferred to Stores organisation. Therefore the present prayer before us for a direction to the administration to consider the case of the applicant for appointment and absorption in the Bridge organisation does not arise. We do not find any merit in the prayer now placed before us.

7. In the result both the O.A.s are disposed of as the applicants have been absorbed and regularised and shifted to stores organisation on

: 7 :

their own volition. Since we are disposing of both the O.As., on merits M.Ps 940/93 and 546/95 are also stand disposed of.

(D.S. Bawej)
Member (A)

(R.G. Vaidyanatha)
Vice Chairman

NS