

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 316 /1992

Date of Decision: 7.3.92

Sanjay Jagannath Gapchup & Ors. Petitioner/s

Shri L.M. Nerlekar Advocate for the
Petitioner/s

V/s.

Divisional Electrical Respondent/s
Engineer (TD), C.Rly. & Ors.

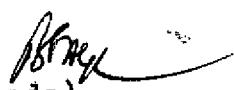
Shri S.C. Dhawan, CGSC. Advocate for the
Respondent/s

CORAM:

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

Hon'ble Shri P.P. Srivastava, 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)
Member (J)

ssp.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, GULESTAN BUILDING NO. 6
PRESCOT ROAD, FORT, MUMBAI-400001.

O.A. NO. 316/92

Dated this 7th day of March 1997.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)
2) Hon'ble Shri P.P. Srivastava, Member (A).

1. Sanjay Jagannath Gapchup
working as Khalasi at
Lonavala Sub Station
under Divisional
Electrical Engineer (TD)
Central Railway, Lonavala
and residing at Amrut
Vihar Apartment, Flat No.
16, Sandosh Nagar,
Chinchwad, Pune 411 032.
2. Shashikant Prabhakar Udare
working as Khalasi at
Chinchwad Sub Station
under Divisional Electrical
Engineer (TD), Central Rly.,
Lonavala and residing at
523, Budhwar Peth,
Pune 411 002.
3. Suhas Keshav Belsare
working as Khalasi under
Divisional Electrical
Engineer (TD) Kurla,
Central Railway and posted
at Bombay VT and residing
at 363, Shukrawar Peth,
Talegaon - Dhabhade,
Tal. Maval, Dist - Pune.
4. Vasudeo Ramchandra Talele
working as Khalasi Helper
under Divisional Electrical
Engineer (TD), Central
Railway, Lonavla and
residing at Kudalgaon Road,
Lonavla, Dist. Pune 410401.
5. Prakash Motilal Zambar
working as Khalasi Helper
under Carriage and Wagon
Superintendent, Central Rly.,
Pune and residing at Kamshet
Shingre Chawl, Vadgaon,
Tal. Maval, Dist: Pune.

6. Kisan Pandurang Pangare
working as Khalasi
Helper under Carriage
and Wagon Superintendent,
Central Railway, Pune
Room No. 335
Near Laxmi Saw Mills
Lonavala
Dist: Pune 410401.

(By Advocate Shri L.M.
Nerlekar)

... Applicants

v/s

1. Divisional Electrical Engineer (TD), Central Railway, Lonavala.
2. Divisional Electrical Engineer (TD), Central Railway, Kurla.
3. Divisional Railway Manager, Central Railway, Mumbai.

(By Advocate Shri S.C.
Dhawan, Central Government
Standing Counsel)

... Respondents

O R D E R

[Per: Shri B.S. Hegde, Member (J)]

In this O.A., the applicants are seeking directions to Respondents to make the judgements in OA 682 of 1987 and OA 327 of 1990 applicable to them and grant them the same relief as they are similarly placed with that of petitioners in that OA. The main contention of the applicants is that though they were trade tested and working as skilled artisans, they were not regularised in that category but on the other hand reverted to Class IV category.

2. The said contention has been denied by the Respondents in their reply and submitted that firstly the application is barred by limitation and as such the petition is not maintainable in law. It is further submitted, that since they have not furnished relevant particulars of their service, as such, in the absence of the same, the Respondents cannot offer any comments. It is further denied by the Respondents that the present applicants are similarly situated with that of the applicants in OA 682/87. As a matter of fact, the applicants were working initially in casual capacity and were brought under monthly rated casual labour later on. The applicants appeared for screening test for Khalasi's post so as to enable their services to be regularised and thus made permanent; according to their own volition, they opted for regularisation as Khalasi and they were declared suitable in Khalasi cadre. Surprisingly, neither any representation nor any personal approach to the concerned authority seem to have been made before approaching the Tribunal. Therefore, it is submitted that the orders passed in OA 682/87 will not apply to the facts of the present case. There is no dispute regarding factual averments. The service records indicate that the applicants were shown as monthly rated casual khalasi as on 1-11-1980. So far as the applicant no. 1 Shri Sanjay Jagannath Gapchup is concerned, he appeared for the screening test out of his own willingness to get himself regularised and became permanent as Khalasi and subsequently he was found suitable by the Screening Committee and posted as Khalasi on regular basis with effect from 8-4-1983.

Therefore, it is incorrect to state that there was any reversion to the Class IV category and further he was not successful in the trade test of wireman at any time. No junior to him has superseded him nor has he made any mention of any case of that type in the petition. It is further denied that he has been appointed as Khalasi in the year 1976 and was promoted to the post of lineman in the year 1978. Neither he was trade tested nor declared successful to hold the post of lineman.

3. In so far as Shri Shashikant Prabhakar Udare, App.No.2 is concerned, he was brought as a monthly rated casual lineman on 20-9-1981; thereafter, he has undergone the screening test on his own to become permanent staff and subsequently was found suitable by the Screening Committee and posted as Khalasi on regular basis with effect from 5-5-1983. In this case also, there is no reversion and no trade test was passed by Shri S.P. Udare as stated in his application. Similarly, the contention of the applicant no. 3 - Shri Suhas Keshav Belsare that he was appointed as Wireman and continued in that post till 1978 was denied by the Respondents and also the illegal reversion to the post of Khalasi. He has been trade tested for wireman and declared successful.

4. The applicant no. 4 - Shri Vasudeo Ramchandra Talele was brought as monthly rated casual lineman and undergone screening test on his own to become permanent staff as Khalasi and he was subsequently found suitable by the screening committee and was posted as a Khalasi on regular basis with effect from 31-3-1983. In this case also, there is no reversion as alleged and no

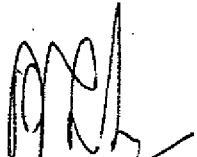
juniors to him have superseded him. Similarly, the contention of the applicant no. 5 - Shri Prakash Motilal Zambar that he has been promoted as lineman and continued in that post till 22-9-1987 and thereafter he was reverted as Khalasi, is denied by the Respondents. It is also denied that he was forced to accept the post of Khalasi though his juniors were working as lineman. Similar is the case of the applicant no. 6 - Shri Kisan Pandurang Pangare.

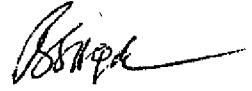
5. As stated earlier, none of the juniors have superseded them and their contention that they were trade tested and declared successful has been denied by the Respondents. The applicants have approached the Tribunal after the decision of the OA 682/87 and the OA 327/90. Till that time, neither any representation nor any personal approach was made to the competent authority. As stated earlier, the decisions in these two O.A.s stand on different footing and are not applicable to the facts of this case. As there is no reversion to Class IV post, the question of promotion to Class III post/cadre does not arise, since there was no promotion/reversion order in this connection. The Supreme Court in Bhoop Singh v/s Union of India JT 1992 (3) SC 322 held that "the judgement and orders of the Court in other cases do not give cause of action. The cause of action has to be reckoned from the actual date." In this case, the cause of action arose in 1983 and the O.A. is filed in 1992, after a lapse of 9 years; therefore, the decision in other cases does not give cause action as laid down by the Apex Court. Therefore, not only the petition filed by the applicants is barred by time, but also there is no merit in the petition. Further,

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it may be noticed that screening test and trade test are not one and the same; both are different for different purposes. Since the applicants have not furnished any relevant particulars and no mention of any junior who is promoted to higher grade than that of the applicant, it is difficult for us to decide the issue placed before us. Secondly, since the applicants belong to different trades, the joint application filed by them is not tenable and no application for joint application is filed.

6. Heard both the counsel - Shri L.M. Nerlekar for the applicants and Shri S.C. Dhawan for the Respondents. In all counts, the application is not maintainable, firstly, the application is belated; secondly, misjoinder of parties and thirdly, the benefit of judgement cannot be extended to other cases unless the facts and circumstances are similar to the case which has been decided by the Tribunal. In the circumstances and for the reasons stated above, we do not see any merit in the O.A. and the O.A. is accordingly dismissed with no order as to costs.


(P.P. Srivastava)
Member (A)


(B.S. Hegde)
Member (J)

ssp.