

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

ORIGINAL APPLICATION NO.:951/94

Dated this 22nd the th day of June 2000.

Shri S.B. Amre & 3 others

Applicants

Mr. S.S. Karkera

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents.

Mr. R.K. Shetty

Advocate for the
Respondents.

CORAM :

Hon'ble Shri L. Hminglana, Member (A)
Hon'ble Shri Rafiq Uddin, Member (J)

(i) To be referred to the Reporter or not ? NO
(ii) Whether it needs to be circulated to other Benches NO
of the Tribunal ?
(iii) Library. YES

Rafiq Uddin
(Rafiq Uddin)
Member (J).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.951/94

Dated this 22nd the _____ day of June, 2000.

Coram : Hon'ble Shri L. Hmingliana, Member (A)
Hon'ble Shri Rafi Quddin, Member (J)

1. Sanjay Dwarkanath Amre,
20A, Rameshwari Co-operative
Society Ltd., Parel Village,
Bombay - 400 012.
2. Shri Dilip Tukaram Parab,
Madhav Niwas, Panwalkar Chawl,
R.No.7, Khajori, Chunabhatti,
Bombay - 400 022.
3. Shri Sakhararam Laxman Gad,
C/o.Waman Mahadeo Sawant,
R.No.4/18, Lalsa Prasad Chawl,
Pratap Nagar, Jogeshwari (E),
Bombay - 400 060.
4. Shri Shivkumar Singh Musaisingh,
Onkargali, Gadjdharban,
Santacruz (W) ,
Bombay - 400 054. .. Applicants.

(Applicants by Shri S.S. Karkera, Advocate)

Vs.

1. The Secretary,
Union of India,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi - 110 001.
2. The Director General of Works,
Central Public Works Department,
Nirman Bhavan,
New Delhi - 110 001.
3. The Chief Engineer (E) W.Z.
New C.G.O. Bldg., 4th Floor,
Central Public Works Department,
Bombay - 400 020.
4. The Superintending Engineer,
(Coordination),
New C.G.O. Bldg., 2nd Floor,
C.P.W.D., Bombay - 400020.
5. The Superintending Engineer,
Bombay Central (El.) Circle,
New C.G.O. Bldg., C.P.W.D.,
Bombay - 400 020.
6. The Executive Engineer (El)
Bombay Central (El.), Division
No.2 S.K. Mistry Plot,
Antop Hill, C.P.W.D.,
Bombay - 400 037. .. Respondents.

(Respondents by Shri R.K. Shetty, Advocate)

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Order

[Per : Shri Rafi Quddin, Member (J)]

This O.A. was filed by the 4 applicants. The Learned Counsel for the applicants has stated at bar that he does not want to press the application on behalf of Sanjay Dwarkanath Amre (Applicant No.1) and Shivkumar Singh Musaisingh (Applicant No.4) because they have already been granted relief by the respondents.

2. The applicant No.2, Dilip Tukaram Parab was engaged as serviceman on muster roll as daily wages worker with effect from 23.8.1984 by the Executive Engineer (El), Bombay Central (El) Division No.2 (Respondent No.6). The applicant No.3, Shri Sakharam Laxman Gad was also engaged as Assistant Operator with effect from 29.10.1984 by the Respondent No.6 on muster roll as daily wages worker. The names of both these applicants were sponsored by the Employment Exchange.

3. The case of the applicants aforesaid is that their services have not been regularised on the post they were engaged on muster roll and Respondent No.4 has forced them to accept the post of Khalasi. The applicants aforesaid seek a direction to the respondents to regularise their services on the posts they were initially appointed / engaged by the respondents. The

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applicants also alleged that under the pressure and threats of Mazdoor Union C.P.W.D. Bombay, the posts of Assistant Wireman, Assistant Operators etc. have been awarded to the office bearers of the Union and the cases of the applicants have not been considered for appointment by the respondents.

4. The respondents in their written statement have stated that during the year 1992 the Government of India, Ministry of Urban Development vide their letter dated 1.9.1992 created 8982 posts in various categories of workcharged establishment of C.P.W.D. for regularisation of Muster Roll Workers. The applicants who were on muster roll establishment were eligible for consideration for their regularisation provided that the posts on which they were engaged on muster roll were available or created as per the Government of India's aforesaid order. However, as no post of Assitant Serviceman and Assistant Operator was created, the applicants could not be considered for their regularisation in their respective posts. Since the posts of Khalasis have been created in the workcharged establishment, the respondents considered the names of the applicants for employment to the post of Khalasis and appointed them on the aforesaid posts. The plea of claims of the applicants being time barred has already been taken by the Respondents.

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5. We have heard Learned Counsels for both the parties and perused the record.

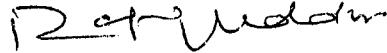
6. It is not in dispute that both the applicants No.2 and 3 are eligible for regularisation of their services on the posts they were engaged on muster roll by the respondents. But according to the respondents the difficulty is that the posts concerned are not available. Hence the respondents are not in a position to regularise their services since the posts of Khalasis were available the applicants have been appointed on those posts.

7. We have noticed that the respondents in their written statement vide para 17 have admitted that some posts of Assistant Wireman, Assistant Operators and serviceman (AC&R) etc. were available due to utilisation of posts vacated by the workers absorbed in N.A.A. as per Director General (Works), C.P.W.D., New Delhi letter dated 4.5.1993. Consequently the applicant No.1 alongwith 3 other Assistant Wireman who were still working on muster roll were regularised on the posts of Assistant Wireman. The Learned Counsel for the applicant have stated at bar that even the services of the applicant No.4 have been regularised on the post he was engaged on muster roll. We have also noticed that Superintending Engineer (C) Coordination, Circle (W.Z.)

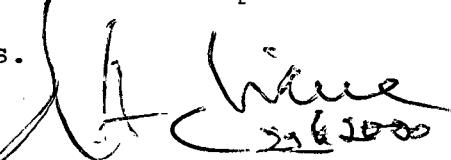
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C.P.W.D., Bombay vide his letter dated 1.2.1990 (Exhibit 'O') addressed to the Executive Engineer (Electl.) Bombay Central Electl. Division-I, C.P.W.D., Bombay (Respondent No.6) has clarified that muster roll staff who worked for 240 days in a year for consecutive year in higher category can be regularised in higher category even they had worked for some time in the lower category on the condition that service rendered in the lower category will not count for seniority. In other words, the applicant No.2 and 3 are also eligible for regularisation of their services on the posts they were engaged / appointed as muster roll worker. Since the present OA is pending from the year 1994, the present position of vacancies of posts on which the applicants No.2 and 3 were engaged is not known. Considering the facts the applicants are eligible for regularisation of their services on the post they were engaged, we find it desirable to issue directions to the respondents to consider the case of the applicant Nos.2 & 3 to regularise their services on the post they were engaged on muster roll as and when the vacancies are available / arises in future as per rules. The O.A. is disposed of accordingly with no order as to costs.


(Rafiq Uddin)

Member (J)


(L. Hmingliana)

Member (A).