

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 561 of 1997.  
Transfer Application No.

Date of Decision 26.9.2001.

R. V. Velhal & 9 Ors.

Petitioner/s

Shri G. S. Walia

Advocate for  
the Petitioners

Versus

UOI & ORS.

Respondent/s

Shri R. R. Shetty

Advocate for  
the Respondents

CORAM :

Hon'ble Shri. S. L. Jain, Member (J).

Hon'ble Shri. S. K. Agrawal, Member (A).

(1) To be referred to the Reporter or not ? yes

(2) Whether it needs to be circulated to other Benches of the Tribunal ? no

S.W.D. -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

NO. O.A. 561 of 1997

Dated this 26/9 day of September, 2001.

C O R A M : 1. Hon'ble Mr. S. L. Jain, Member (J).

2. Hon'ble Mr. S. K. Agrawal, Member (A).

1. R. V. Velhal.
2. K. S. Mangale.
3. N. K. Chavan.
4. Chandradeep Sharma.
5. R. J. Chaware.
6. P. N. Jadhav.
7. D. S. Shelar.
8. P. K. Chaurasia.
9. A. N. Pawar.
10. Namdeo Shankar Kshirsagar.

... Applicants

All the applicants are working as Khalasis in Central Railway's Bombay Division.

(By Advocate Shri G. S. Walia)

A N D

1. Union of India through  
General Manager,  
Central Railway,  
Mumbai C. S. T.,  
Mumbai - 400 001.
2. Divisional Railway Manager,  
Bombay Division,  
Central Railway,  
Headquarters Office,  
Mumbai C. S. T.,  
Mumbai - 400 001.

... Respondents

(By Advocate Shri R. R. Shetty)

O R D E R

( Per Hon'ble Mr. S. K. Agrawal, Member (A) )

All the 10 applicants in this O.A. were formerly working as casual labourer in various Class III posts such as Wiremen, Carpenters, Drivers, Blacksmith and Fitters. They have been

regularised in Class IV posts w.e.f. 10.9.1996. The applicants are aggrieved by their non-absorption in Group-C posts. According to the respondents, all the applicants were absorbed and regularised as Khalasis on their own willingness.

2. The applicants were initially appointed as casual labourer under various Class III posts in the Construction Division. The said appointments were to cease upon completion of the particular projects for which the applicants had been employed. In order to ensure that there is no retrenchment or termination of service of the applicants upon completion of the projects, the applicants were given the option of being absorbed on a regular basis in Group-D posts. The applicants willingly agreed as it was a better alternative for them.

3. The ld.counsel for the applicants has submitted that the willingness of the applicants to be regularised in Group-D posts as Khalasis was not voluntary. After having worked for a period of more than 6 to 7 years in the Central Railway, the applicants could not be left in the lurch to find out a job outside, when they are already overage. The applicants counsel has, therefore, argued that the respondents exploited the weakness of the applicants as poorly paid employees and on the applicants refusal to be absorbed as Khalasis, the applicants would have been thrown out from the Railway service. The posts of Wireman, Drivers, Carpenters, Fitters, Blacksmith, etc., on which the applicants were earlier working is a skilled Artisan post in the scale of Rs.950-1500/- (RPS), whereas the posts of Khalasis on which they were subsequently regularised is in the scale of Rs.750-940/- (RPS). The applicants counsel has, therefore, argued that the impugned

action of the respondents in absorbing the applicants as Khalasis is absolutely arbitrary and discriminatory.

4. The ld.counsel for the respondents has, however, submitted that the policy of the Railway Board is clearly to absorb persons like the applicants only in Class IV posts and not in Class III posts. Further, by regularising the applicants in Class IV posts, the respondents have more than satisfied the aspirations of the applicants as they are today regular employees having little to complain.

5. It is further submitted by the ld.counsel for the respondents that the casual labours are at times appointed in both 'Group-C' and Group-D posts. However, absorption of casual labour is done only in Group-D posts. Besides, it was further stated that the applicants have given their willingness for absorption in Class IV posts out of their own free will and choice and that there was no pressure or force exerted on them for obtaining the said willingness from them. The applicants in view of their willingness already given are now estopped from going back on their word for seeking absorption in Class III posts.

6. The ld.counsel for the respondents has cited the decision of this Bench in O.A.1181/1993 and O.A.No.1182/1993 dated 14.7.1999 and another decision dated 3.9.1997 in O.A. No.451/1992 wherein on similar facts the O.A.s were dismissed since the applicants had given in writing their willingness for accepting the post of Khalasis which is a Class IV post. The respondents have also referred in their support a Full Bench decision dated 4.12.2000 of the Principal Bench on similar facts in O.A.103/1997 alongwith six other applications.

7. Heard the 1d.counsel for the applicants as well as the respondents.

8. In our view, after hearing both the sides, we find that there is no merit in the contention of the applicants. The Railway Administration has brought to the notice of this Court that the applicants had given in writing their willingness for accepting the post of Khalasis which is a Class IV post. Moreover, according to the respondents, absorption of casual labour is done only in Group-D post. The distinction between a casual post and a permanent post is well known. Casual Labour has a risk of his service being terminated at any time. There is no lien in that post. On the other hand, a permanent employee has a permanent tenure apart from many other service benefits. When in order to ensure that there is no retrenchment or termination of service of the applicants upon completion of projects, option of being absorbed on a regular basis in a Group-D post was given to the applicants, the applicants might have thought at that time that accepting a lower post would be beneficial to them and at least it would give them a permanent tenure and accordingly they accepted a Class-IV post offered by the respondents. Hence, the applicants cannot be allowed to have any grievance on that account.

9. The various decisions cited by the 1d.counsel for the respondents also support this view.

10. Besides, this view is also supported from the decision of the Apex Court in the case of Union of India & Another vs.



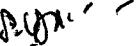
Moti Lal & Ors. (1996 SCC (L & S) 613), wherein their Lordships of the Supreme Court had observed as under :

"Thus it is apparent that a daily-wage or casual worker against a particular post when acquires a temporary status having worked against the said post for specified number of days does not acquire a right to be regularised against the said post. He can be considered for regularisation in accordance with the rules."

11. In the result, the O.A. is dismissed with no order as to costs.



( S.K. Agrawal )  
Member (A)



( S.L.Jain )  
Member (J)

R.S.