

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

D.A. NO. 545/94

(3)

Between:

Date of Order: 3.2.95.

1. K. Vidhyadharan
2. P. Babu
3. V. Babu Pillai
4. P. Sivasankar Pillai
5. M. Gopinathan

...Applicants.

And

1. Chief Administrative Officer, (Construction),
South Central Railway,
Secunderabad.
2. The Divisional Railway Manager, (MG),
South Central Railway,
Secunderabad.
3. The Divisional Engineer, (Construction),
South Central Railway,
Secunderabad.
4. Chief Bridge Inspector, (Construction),
(GC) South Central Railway,
Secunderabad.
5. Divisional Engineer, Construction - I,
South Central Railway,
Secunderabad.
6. Inspector of Works, IOW(C), ROB, LPT,
South Central Railway,
Secunderabad.
7. The General Manager, Railnilayam,
South Central Railway,
Secunderabad.

...Respondents.

(P-7 Impleaded as per the order of Court dated 3.2.95)

Counsel for the Applicants : Mr. P. Krishna Reddy

Counsel for the Respondents : Mr. V. Bhimanna, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (J)

THE HON'BLE SHRI A.B. GORTHI : MEMBER (A)

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O.A.No.545/94

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X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

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All the five applicants herein ^{who} are working as Mopla Khalasis under S.C.Railway, claimed by means of this O.A. for a direction to the respondents to absorb them on regular basis in a corresponding Group 'C' post^s with consequential benefits.

2. Applicants 1-4 were directly engaged as Mopla Khalasis (Skilled Artisans) on 20.4.79. All the four of them were promoted to Highly Skilled Grade-II on 19.5.84. Applicant No.5 joined as an Artisan on 2.6.79 and was promoted to Highly Skilled Grade II and was also promoted to HSG II along with the ^{other} applicants on 19.5.89. The applicant states that they have since been granted temporary status and put on monthly rate of pay because of their continuous working and uninterrupted engagement ever since they ^{were} initially engaged. Their grievance is that they are now being asked to appear for screening for the purpose of regularisation in Group 'D' post^s. The applicants contended that if they take up Group 'D' post^s on regular basis they ~~would~~ ^{invariably} be put to an ~~unofficial~~ loss of Rs.1,100/- p.m. approximately. In these circumstances the prayer of the applicant^s is that they are entitled to be regularised in a corresponding Group 'C' post^s only.

3. The respondents in their reply affidavit have stated that Mopla Khalasis are those who are engaged to work in Bridge Construction Projects. As it involved certain amount of risk and as it required some skilled, the grade

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of Mopla Khalasy is higher than that of an ordinary casual labour. However as there are no regular matching posts in Group 'C', the only possibility of regularising the applicants is in Group 'D'. The respondents contend that in case the applicants are not ~~want~~ ^{Keen} to be absorbed as Group 'D' employees they would be continued to be employed as Mopla Khalasis and would be liable to be terminated in accordance with the I.D. Act in case of there being no work.

4. Heard learned counsel for both the parties.

The main contention raised on behalf of the applicants is that the proposed action of the respondents to regularise the applicants against Group 'D' posts only, would not ^{only} be unfair and unreasonable but would also resultant ⁱⁿ substantial financial hardship of the applicants. It is contended that the respondents having extracted skilled work from the applicants which involved certain amounts of risks, they are not justified in bringing ^{down} the status of the applicants in considering their cases for regularisation. Learned counsel for the respondents on the otherhand has drawn our attention to the judgement of the Tribunal in OA.1018/91 dated 9.1.92 wherein the request of similarly situated applicants for regularisation against Group 'C' post^s was rejected.

5. On behalf of the applicants it is urged that after the pronouncement of the judgement in OA.1018/91 there was a new development, in that, the Southern Railway has considered this ~~very~~ problem in ~~the~~ consultation with the organised labour and came to a deliberate decision that Mopla Khalasis working in Project Organisation should be considered for regularisation against "Tindal/Bridge Erection" which was considered to be an appropriate trade against ^{which} the

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Mopla Khalasis could be regularised. The said decision is contained in Southern Railway letter No. P(S)535/1/12 dated 31.3.1992. The letter is to be effect that the following categories of person would be eligible for regularisation against in the grade of Tindal/Bridge Erection:-

- i) Casual Labour Mopla Khalasis of Bridge Organisation.
- ii) Casual Labour skilled Khalasis of Bridge Organisation.
- iii) Casual Labour Artisan like Riveters, Scrangs, Black smiths etc. of the Bridge Organisation who do not get absorbed in their appropriate trades.

6. Following the aforesated administrative decision it appears that the Mopla Khalasis and other similar casual labour Artisans were considered for regularisation and were infact regularised in the posts of Serang/Tindal (Bridge Erection) as can be seen ~~in~~ ^{from} the Southern Railway office order No. J/W dated 11.12.92. In that order we find that as many as Twenty Two Mopla Khalasis were regularised against the posts of Serang/Tindal (Bridge Erection) in the scale of Rs. 950-1500/-. We find that the decision taken by the Southern Railway is salutary and in the ~~best~~ interest of Mopla Khalasis who had been rendering skilled service in risky areas over the past more-^{than} one decade.

7. We find that OA.1018/91 on the file of this Bench of the Tribunal was decided on 9.1.92, hence there was no opportunity for the Bench to take into consideration the decision taken by Southern Railway and its implementation in respect of similarly situated railway employees.

8. Having heard learned counsel for both the parties and having perused the material before us we find that there can be no ~~plausible~~ ^{possible} justification for South Central Railway not to take a similar decision in the matter of

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Copy to:

1. The Chief Administrative Officer, (Construction),
South Central Railway,
Secunderabad.
2. The Divisional Railway Manager (MC)
Secunderabad.
3. The Divisional Engineer, (C)(GC),
South Central Railway,
Secunderabad.
4. Chief Bridge Inspector, (Construction),
(GC), South Central Railway,
Secunderabad.
5. Divisional Engineer, Construction -I,
South Central Railway,
Secunderabad.
6. Inspector of Works, IOW(C), R08, LPT,
South Central Railway,
Secunderabad.
7. The General Manager, Railnilayam,
South Central Railway,
Secunderabad.
8. One copy to Mr.P.Krishna Reddy, Advocate, CAT, Hyderabad.
9. One copy to Mr.V.Bhimanna, Addl.CGSC,CAT, Hyderabad.
10. One copy to Library, CAR, Hyderabad.
11. One spare copy.

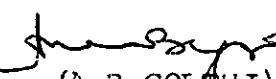
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regularisation of Mopla Khalasis as was taken by Southern Railway after due consideration and in consultation with the Organised Labour. We, therefore, direct the General Manager, S.C.Railway (Respondent NO.7) to examine the issue carefully in the interests of employees similarly situated of what has been done by Southern Railway. This shall be done within (four) months from the date of communication of this order. After the decision is taken, the case of the applicants shall be considered ^{for regularisation} in-accordance with their taking into consideration their seniority and as per the guidelines, if any, contained in the said decision. Till then the applicants shall continue to be retained as temporary Mopla Khalasis in accordance with extant rules.

9. The O.A. is ordered accordingly without any order as to costs.


(A.B. GORTHI)
Member (Admn.)


(A.V. HARIDASAN)
Member (Judl.)

Dated: 3rd February, 1995

(Dictated in Open Court)

sd


DEPUTY REGISTRAR(J)

contd...

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

DATED : 3 2 95

ORDER/JUDGEMENT.

M.A/R.P/C.P.No.

in

D.A.NG. 545/94.

Admitted and Interim directions
issued

Allowed

Disposed of with Directions

Dismissed

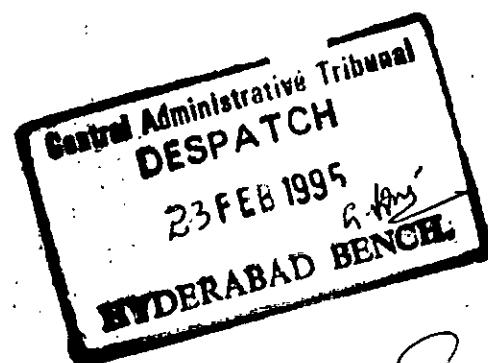
Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

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No. 545/94
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