

(63)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL-APPLICATION-NO. 344 OF-1997

DATE-OF-ORDER:-24th March,-1997

BETWEEN:

1. D.YESUDAS,
2. Ch.SRIKANTH BABU,
3. A.NAGESWARA RAO

.. APPLICANTS

AND

1. Union of India, thorough the General Manager,  
Core (Northern Raiway), Allahabad,
2. The Divisional Railway Manager (Personnel),  
S.C.Railway, Vijayawada,
3. The Chief Project Manager, RE,  
Vijayawada,
4. The Sr.Personnel Officer, RE,  
Vijayawada,
5. The Dy.Chief Electrical Engineer,  
OHE/RE, Vijayawada.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: MRS.C.JAYASREE SARATHY

COUNSEL FOR THE RESPONDENTS:Mr.V.BHIMANNA, ADDL.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mrs.C.Jayasree Sarathy, learned counsel for the applicants and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. There are 3 applicants in this OA. They joined as Casual Labour Khalasis <sup>and</sup> in other casual labour Group-D.



64

posts under R-3. It is stated that they also got temporary status in due course. By the impugned order No.B/P.564/II/TRD/Vol.III dated 3.3.97, the three applicants herein are sought to be absorbed as Khalasis in the scale of pay of Rs.750-940 in Electrical/TrD departments of Vijayawada Division on bottom seniority. The names of the applicants stand at Sl.Nos.20, 26 and 46 of the impugned order. The Applicants submit that they are at present in the higher grade of Rs.950-1500 as Fitter (Applicant No.1), Driver (Applicant No.2) and Works Assistant (Applicant No.3). If they are posted as Khalasis in the scale of pay of Rs.750-940 though it is of a permanent nature, it will cause harm to them as their emoluments will drop steeply. They submit that they are entitled to be posted in the same grade in which they are working. No representation in this connection has been filed.

3. This OA is filed for setting aside the impugned order dated 3.3.97 (Annexure II page 13 of the OA) issued by R-2 by holding it as illegal, arbitrary and in violation of Articles 14, 16, 21 and 311 of the Constitution of India and consequently direct the respondents to regularise their services in Grade-C posts as has been done in the case of similarly situated employees with effect from the date they were appointed to the casual posts.

4. The applicants by the impugned order are made regular and they are being absorbed as Khalasis in the regular grade in the open line on the basis of the screening. The applicants do not wish to be posted as

R

2

65

Khalasis but pray for posting them in the grade in which they are working now in open line. The posts similar to the casual posts in which they are working now are to be filled on the basis of the recruitment rules in open line as they are permanent posts. The applicants do not have a vested right to be posted irrespective of the recruitment rules. But they can be posted if they apply for the post whenever advertisement is issued in accordance with the rules and on that basis they can be considered and absorbed if found fit. There is a quota fixed for direct recruitment in all these posts. If such quota exists, then the applicants are at liberty to apply against that quota whenever notified and on the basis of their applications, their eligibility for consideration for the above said posts may be decided by the competent respondent authorities and on that basis a final decision may be taken to absorb them against those posts following the extant rules. Till such time the above process is not completed, they cannot demand as a matter of right to be posted against those open line posts even though they are working as casual labour in similar workcharged posts in the workcharged establishment.

5. The prayer of the applicants to suspend the impugned order dated 3.3.97 is to be considered as a valid one if they are not willing to join that post. Nobody can be forced to join the posts in which they are not happy to join. But that would lead to <sup>the</sup> risk of their being retrenched if the worked charged posts has shrunk and the applicants as per the seniority list is to be reverted. However, as the applicants are prepared for that

R

D

eventuality, we do not think that it is fair on the part of the respondents to force them to join as Khalasis in regular category as per the impugned list dated 3.3.93. The applicants though state that some others similarly placed like them were posted against regular posts in the same grade, no such examples have been indicated. Further their cases have to be analysed to see whether similarity exists.

6. The applicants if they are not willing to join in the posts as per the impugned list they should give individual representation within a fortnight from the date of receipt of a copy of this order to the concerned respondents.

6. In the result, the following direction is given:-

The applicants, if so advised, may give individual unwillingness letter to join as Khalasi in the scale of pay of Rs.750-940 in Electrical/TrD department of Vijayawada Division in terms of the impugned order dt.3.3.97. If such a letter is received within a fortnight from the date of receipt of a copy of this order, then the respondents should not force them to join that post in pursuance of the impugned order. The applicants should be continued in R.E. organisation in the casual capacity in the present post in which they are working. But they stand <sup>the</sup> risk of being retrenched if these workcharged posts are made surplus or there is no necessity to operate these posts in the workcharged R.E. organisation. The applicants, if so advised, may apply against the Group-C posts against 20%




quota of direct recruitment if available whenever any notification to that effect is issued. If such an application is received in pursuance of the notification issued by the respondents, then the applicants should also be considered along with the others in accordance with the rules.

7. The OA is ordered accordingly at the admission stage itself. No order as to costs.

  
(B.S. JAI PARAMESHWAR)  
MEMBER (JUDL.)

24.3.97

DATED: -24th-March, -1997  
Dictated in the open court.

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

  
D.R. (Judge)

vsn

## Copy to:-

1. The General Manager, Core(Northern Railway), Union of India, Allahabad.
2. The Divisional Railway Manager(Personnel), S.C.Rly, Vijayawada.
3. The Chief Project Manager, R.E.Vijayawada.
4. The Sr. Personnel Officer, R.E.Vijayawada.
5. The Dy. Chief Electrical Engineer, OHE/RE, Vijayawada.
6. One copy to Mrs. C.Jayasree Sarathy, advocate, CAT, Hyd.
7. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
8. One copy to Deputy Registrar(A), CAT, Hyd.
9. One spare copy.

Rsm/-

30/3  
25/4/97

UDGE

9

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B. S. JAI PARAMESHWAR:  
M(J)

DATED: 24/3/97

ORDER/JUDGEMENT

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

O.A.No.

in: 394/97

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLIED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

A/w 4/97

