

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

O.A.1159/97.

Dt.of Decision : 28-4-99.

M.Balachandran Pillai

.. Applicant.

Vs.

1. The Railway Board, rep. by  
its Chairman, Rail Bhavan,  
New Delhi.

2. The General Manager,  
SC Rly, Rail Nilayam,  
Sec'bad.

.. Respondents.

Counsel for the applicant : Mr.P.Krishna Reddy

Counsel for the respondents : Mr.J.R.Gopala Rao,SC for Rlys.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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



..2/-



ORDER

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

Heard Mr.Rama Rao for Mr.P.Krishna Reddy, learned counsel for the applicant and Mrs.Sakthi for Mr.J.R.Gopala Rao, learned counsel for the respondents. Mr.R.N.Sachan, Chief Administrative Officer, SC Railway was present.

2. The applicant in this OA was engaged on 19-11-76 under I.O.W. (Construction)-I, Bridge Erection Work, SC Rly, Sec'bad. It is stated that he obtained temporary status in the Group-C post w.e.f., 1-1-82. He was posted as a Group-D as Gangman after following the necessary medical screening test etc., under FWI, Hingoli as per the DRM's letter dated 9-8-91. Aggrieved by that order he filed OA.1081/91 on the file of this Tribunal for regularising him in the skilled category. However that OA was dismissed. He challenged that judgement by filing SLP in the Apex Court, which was also dismissed. It is stated that the applicant is absconding from 24-1-92 to avoid the orders of DRM/P/Hyderabad.

3. The main contention of the applicant in this OA is that the mopla khalasi in Southern Railway are absorbed in skilled category and hence absorbing him as unskilled category is not called for and hence he requests that he should be absorbed in the skilled category as was done in the case of the mopla khalasi of Southern Railway. Further, in reply to his representation addressed to the General Manager in pursuance of the direction in OA.173/96, he was informed by the impugned letter No.P.Con.648/OA.No.545/94 dated 12-6-97 (Annexure-I) that his request for regularisation as Artisans in Group-C in open line is not permissible.

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4. Aggrieved by the above, he filed this OA to declare that the order No.P.Con.648/OA.No.545/94 dated 12-6-97 (Annexure-I) of R-2 is illegal and without jurisdiction and for a consequential direction to the respondents to regularise the services of the applicant in the category of Skilled Artizan and give him seniority and all consequential benefits from 24-6-91 i.e., the date when the applicant was asked to attend the screening test.

5. There are number of cases filed on the file of this Tribunal in regard to the <sup>casual</sup> skilled khalasi labour posted as a Group-D in the open line. In all those cases, this Tribunal had held that the skilled casual labourers are entitled for absorbtion in a skilled category in the open line against the direct recruitment quota of 25%. It was held in those cases that the applicants in those OAs should apply as and when advertisement was issued for direct recruitment in the skilled category in the appropriate cadre and if such applications were received, they should be considered in accordance with law. The present case is also similar to the cases which were disposed of earlier. The applicant herein was screened and posted regularly as a Group-D Gangman in Hyderabad Division. It is not known why the applicant has not joined and pursued his case for further promotion in the cadre. If he had done that, probably, by now he would have become a skilled artisan staff. Be that as it may, the present position is that the applicant failed to join as regular Group-D in Hyderabad Division and continue to insist that he should be absorbed as a regular artisan in Group-C in the skilled category in open line. It is also not known why the applicant failed to join

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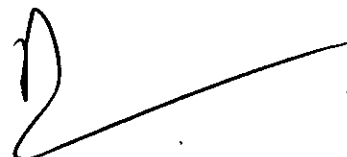
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Hyderabad Division or to report to the concerned for taking him as a casual labour in the skilled category as mopla khalasi. It is stated that the applicant has been issued with a major penalty charge sheet for his ~~an~~ unauthorised absent. That point need not be considered in this OA as that is a separate proceeding.

6. We enquired from the concerned official from the construction organisation as to ~~why~~ how the southern railway is creating post in the skilled category of Mopla khalasi whereas the SC Railway is not following that procedure. The CAO on 6-4-99 requested time to examine this issue and submit. To-day an additional affidavit has been filed on behalf of the respondents. The sum and substance of the additional affidavit is that in the SC Railway there was no post of mopla khalasi in the skilled category either in open line or in the construction line, whereas in the Southern Railway there were mopla khalasis in the higher grade. Hence, the question of comparing both the cadres does not arise. The Southern Railway is following its own practice and the question of comparing the status of the applicant herein with that of similar casual labour mopla khalasis in Southern Railway does not arise.

7. The Group-C and D posts are controlled by the respective zonal Railways. It is for the zonal railways to decide the status of the staff ~~engaged~~ as casual labour for various works entrusted to them. Hence, when the SC railway representative submits that the case cannot be compared with the Southern Railway, there appears to be a reason for such a submission. Hence, the case has to be considered on the basis of the availability of the posts in SC Railway for appointing the applicant in skilled category or in unskilled category.

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8. The representative from the SC Railway further states that a decision has been taken now to create the work charged skilled post in Group-C cadre in ~~XXXXX~~ construction organisation and the mopla khalasis who were khalasi skilled will be engaged in those work charged posts keeping their lien in Group-D in the open line and as and when those work charged skilled staff become surplus then the work charged employees kept in Group-C will be released as per seniority and sent to open line for absorption in Group-D ~~in the~~ post, where they are keeping their lien. Ofcourse they will be considered for higher promotion if necessity arises on the basis of the position of the junior in the allotted regular cadre, in the mean time. The above view appears to be a realistic one and such a consideration can be given to the applicant herein also who was working all the time in construction organisation as casual labour artisan.

9. We suggested to the representative of the SC Railway that the applicant herein may be allowed to continue against the work charged post in Group-C but his lien in Group-D may be maintained in open line. As he had already been allotted as Group-D Gangman in Hyderabad Division that allotment may be allowed to continue and instead of releasing the applicant to join at Hyderabad Division he may be continued as skilled khalasi labour against the work charged post, if those posts are available in the construction organisation. If those work charged posts are surrendered and the turn of the applicant has come for releasing him to the open line as Group-D, at that time the applicant may be released to join in the unit in which he is keeping his lien as Group-D. Ofcourse when he joins in the unit in which he has lien he will be taken as

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Group-D and if his juniors had already been promoted to higher grade in that unit, his case should ~~be~~ also be considered for higher posts in accordance with law.

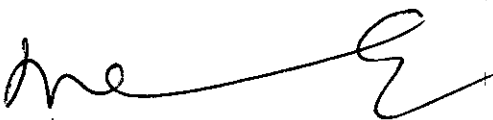
10. The representative from the SC Railway fairly agreed to the above view. In view of the above, the following direction is given:-

The applicant should be continued against work charged post in the skilled category in the construction organisation till those posts are available ~~and the applicant,~~ as per his seniority, ~~can be continued in those posts.~~ If those work charged posts in the skilled category are abolished due to the reduction of work or due to some other reason, then the applicant should be released to join Hyderabad Division as Group-D. If such ~~an~~eventuality of releasing him to Hyderabad Division to join as Group-D arises, then Hyderabad Division should consider his case for the equivalent post held by his juniors in Hyderabad Division at that time as per rule.

11. With the above direction the OA is disposed of.

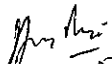
No costs.

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

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

28/4/99

Dated : The 28th April, 1999.  
(Dictated in the Open Court)

  
12/5/99

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COPY TO:-

1. HON'BLE

2. HHRP M(A)

3. HBSJP M(J)

4. D.R.(A)

5. SPARE

1ST AND 2ND COURT

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR  
VICE - CHAIRMAN

THE HON'BLE MR. H. RAGENDRA PRASAD :  
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :  
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR :  
MEMBER (J)

ORDER: 28.4.99

ORDER / JUDGEMENT

MA / RA / CP No.

in

OA. No. 1159/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

O.A. / CLOSED.

DISPOSED OF WITH DIRECTIONS / DESPATCH

DISMISSED.

DISMISSED AS WITHDRAWN

ORDERED / REJECTED.

NO ORDER AS TO COSTS.

SRR

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
दिल्ली / DESPATCH

24 MAY 1999

हैदराबाद ब्याचपीठ  
HYDERABAD BENCH

6/5/99 for M