

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 28.1.2007

OA No.581/1994

Daulat Khan S/o Shri Basir Khan at present employed on the post of Mason under PWI Ramganjmandi, Western Railway, Kota Division, Kota.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Senior Divisional Engineer (Estt.), Western Railway, Kota Division, Kota.
4. Permanent Way Inspector, Western Railway, Ramganjmandi, Kota Division, Kota.

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. Asgar Khan, proxy to Mr. M. Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member

Hon'ble Mr. N.P. Nawani, Administrative Member

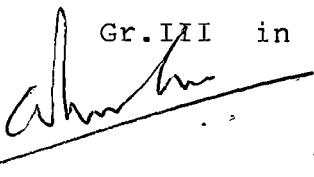
ORDER

Hon'ble Mr. N.P. Nawani, Administrative Member

The applicant in this Original Application prays that the respondents may be directed to fix/pay the salary to applicant in scale of Rs. 950-1500 (RP) for the post of Mason and make payment of arrears of difference of pay and allowance on the principle of equal pay for equal work and consider his regularisation on the post of Mason Gr.III and allow him all consequential benefits.

2. Brief facts as stated by the applicant are that the applicant was appointed on the designation of Khalasi in 1979 but has been physically employed on the post of Mason. The post of Khalasi is in Group 'D' scale of Rs. 750-940 and the post of Mason is in Group 'C' scale Rs. 950-1500 (RP). The applicant was given the scale of Gangman w.e.f. 11.4.1984 in the scale of Rs. 775-1025. However, during the period 1.4.1989 to 21.1.1993 he was paid officiating allowances for the post of Mason Gr.III in the scale of Rs. 950-1500 in which post he is physically performing the duties. He was granted temporary status on the post of Mason on 23.2.1983 vide letter dated 14.4.1984 (Ann.A1) and he was being given second class free passes. The applicant made representation to authorities to appoint him in the vacant post of Mason on regular basis vide Anns. A4 and A5. The applicant has been employed on the post of Mason against a clear vacancy arising due to retirement of one Bhanwar Lal, Mason (Ann.A6). The respondent No.3 has now issued a letter dated 7.7.1994 (Ann.A7) for direct recruitment under 25% quota for the post of Artisan Gr. III in the scale of Rs. 950-1500 from Group 'D' persons who have completed one year's service but the case of the applicant has not been considered at all, even though he has experience of 15 years on the post of Mason and he has even been told that the moment class IV are promoted, he will face reversion.

3. Notice was given to the respondents, who have filed a reply. It is stated that the applicant was appointed sub-Gangman on 11.4.1984 and granted temporary status w.e.f. 23.3.1983. He has served for the post of Gangman in Rs. 775-1025 vide letter dated 7.6.1989 and put to officiate as Mason Gr.III in the scale Rs. 950-1500 purely on ad hoc and

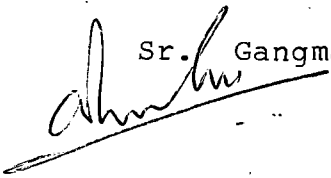


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sanctioned the officiating allowance from 1.8.1989 to 21.1.1993. It has been stated that the applicant cannot be promoted as Mason Gr.III because as per AVC, the work side staff i.e. Khalasi/Helper Khalasi scale Rs. 750-1150 are only eligible for promotion to Artisan category whereas the way side staff (where his lien and seniority is being maintained) on being promoted to the post of Senior Gangman, Keyman etc. The applicant is, therefore, not eligible for trade test of Mason Gr.III. It has been explained that the applicant was utilised as Mason Gr.III under PWI, RMA as regular incumbent was not available and whenever the applicant shouldered the responsibility of Mason Gr.III, he was paid officiating allowance for such period. Since the filling up this vacancy by a selected Mason, the officiation of the applicant has been discontinued. The actions of the respondents are within the prescribed rules and there is no question of violation of provisions of Articles 14 and 39(d) of the Constitution of India.

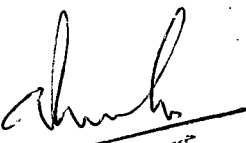
4. We have heard the learned counsel for the parties and have perused the records.

5. It appears that the applicant who is a Gangman, is the way side staff, where his lien and seniority is maintained, and, therefore, his line of promotion is Senior Gangman, Keyman etc. He was granted temporary status as a Casual Labour. In his representation dated 17.8.1990 (Ann.A4), he himself had written his designation as Gangman. In Ann.A6 which is a recommendation by PWI, RMA also, his designation has been mentioned as Gangman. It is, therefore, quite clear that the applicant was a Gangman and his line of promotion was Sr. Gangman, Keyman etc. whereas the office order dated



7.7.1994 (Ann.A7) was for the post of Artisan Grade categories for which the feeder posts were Khalasi. In fact, it is observed from page 1 of the Ann.A7 that all the nine employees listed therein are Khalasi. The applicant cannot, therefore, claim a promotion in the category of Artisan Gr.III and cannot challenge promotions given under 25% quota direct recruitment for Class-IV employees *vide order dated 7.7.1994 (Annex.A-1)* <sup>Shr</sup>.

6. In view of above, the applicant has not been able to substantiate his claims and the Original Application does not succeed. The Original Application is accordingly dismissed with no order as to costs.

  
(N.P. NAWANI)

Adm. Member

  
(S.K. AGARWAL)

Judl. Member