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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 02.8.2000

OA 430/97

Paras Ram, Carpenter under FWI (KCP) Sr. Section Engineer,
(PW) KCP, Kota.

... Applicant

Versus

1. Union of India through General Manager, W/Ely,
Churchgate, Mumbai.
2. Dvl. Rly. Manager, W/Ely, Kota Dn., Kota.
3. Dy. Chief Engineer (C), W/Ely, Kota Dn., Kota.

... Respondents

CORAM:

HON'BLE MR. S. F. AGARWAL, JUDICIAL MEMBER

HON'BLE MR. N. F. NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. Vinod Sharma, proxy
counsel for Mr. Arvind Bhardwaj

For the Respondents

... Mr. Hemant Gupta, proxy
counsel for Mr. M. Rafiq

O R D E R

PER HON'BLE MR. S. F. AGARWAL, JUDICIAL MEMBER

In this OA filed u/s 19 of the Administrative Tribunals Act, the applicant has mainly prayed to regularise his service in Group-C post of Carpenter and to quash and set aside the order dated 28.8.97 (Annexure A/2), by which services of the applicant alongwith others have been regularized in Group-D post of Gangman in the pay scale of Rs. 775-1025 (RP).

2. Facts of the case in brief, as stated by the applicant,

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are that the he was initially appointed as Carpenter on 21.4.84 and was granted temporary status w.e.f. 21.4.85. Since then the applicant is working in the pay scale of Rs.950-1500 in Group-C post. It is stated that the applicant has been efficiently and to the satisfaction of the respondent department discharging the duties on the post of Carpenter. Therefore, the applicant should have been regularised in Group-C post of Carpenter, but the applicant was regularised in Group-D post by the respondents vide impugned order dated 28.8.97 and the same is liable to be quashed. Therefore, the applicant filed this OA for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that as per the provisions contained in the Indian Railway Establishment Manual, the casual labourers are normally not appointed in the skilled category without a trade test and for regularisation of such employees against 25% quota, qualification for filling up this quota is ITI Certificate Course or Training Course and after fulfilling the conditions referred in the rules the services can be regularized only. It is stated that the applicant has been regularised in Group-D post and the impugned order passed by the respondents in this regard is perfectly legal and not in any way illegal, arbitrary and in violation of Articles-14 and 16 of the Constitution. Therefore, the applicant has no case for regularisation against the Group-C post and thus the applicant is not entitled to any relief whatsoever, as claimed by him in this OA, and this OA is liable to be dismissed.

4. Heard the learned counsel for the parties and also

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perused the whole record.

5. A casual labour cannot claim regularisation only because he is qualified for the post and the vacancy exists for the post or/and he has been conferred temporary status. Admittedly, the applicant was working as Carpenter on casual basis and he was regularised on Group-D post of Gangman vide order dated 28.8.97. In Railways a casual labour can only be regularised in Group-D post. In Jamna Prasad and Others v. Union of India and Others, SLJ 2000 (1) (CAT) 512, it was held that in Railways a casual labour can only be regularised in Group-D. Therefore, in our considered view, the respondent department did not commit any error in regularising the applicant in Group-D post and the applicant is not entitled for regularisation in Group-C post.

6. The learned counsel for the applicant also submits that the applicant was working in Group-C post in the pay scale of Rs.950-1500 (RF) but by this regularisation in Group-D post the salary of the applicant will be reduced.

7. In catena of cases, this Tribunal and other Tribunals had held that if a casual labour working on Group-C post is regularised in Group-D post, his pay shall be protected.

8. In view of the forgoing, we are of the considered opinion that the impugned order dated 28.8.97, at Annexure A/2, does not suffer from any illegality or infirmity and the applicant has no case for interference by this Tribunal in this regard. However, the pay of the applicant on such regularisation shall be protected and this order shall not

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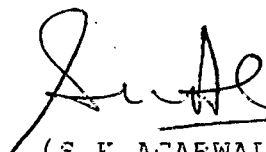
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preclude the respondents to allow the applicant to work on the post of Carpenter till he is promoted on the post against 25% quota meant for this purpose.

9. With the above observations, the OA stands disposed of with no order as to costs.


(N.F. NAWANI)

MEMBER (A)


(S.E. AGARWAL)

MEMBER (J)