

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR. (P)

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Date of Decision: 05.03.1998

OA 469/97

Raffique Mohammad, Blacksmith under Permanent Way Inspector, Western Railway, Phulera, District Jaipur.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. The Chief Engineer (S&C), Western Railway, Jaipur.
3. The Divisional Railway Manager, Western Railway, Jaipur.
4. The Sr. Divisional Engineer (S&C), Western Railway, Divisional Office, Jaipur.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. N.K. Bhatt

For the Respondents

... Mr. Tej Prakash Sharma

O-R-D-E-R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Raffique Mohammad, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to absorb him on the post of Blacksmith from the date of his initial appointment i.e. 12.7.81 in the prescribed pay scale of Blacksmith, with all consequential benefits.

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

3. Applicant's case is that he was initially appointed as Blacksmith on 12.7.81 in the Engineering Department of the Western Railway at Jaipur. He was posted under the Permanent Way Inspector (Survey & Construction), Western Railway, Phulera. However, he has now been regularised on the post of Gangman in the pay scale Rs.775-1025 (RF), a Group-D post. The contention of the applicant is that despite his continuous working as Blacksmith and his having received the pay of that post, the respondents have not only changed his designation to a lower post but his pay scale has also been reduced. His contention is that since he has been working as Blacksmith for the last 17 years, there was no reason for changing his trade to his detriment and, therefore, the action of the respondents in regularising him as a Gangman in the pay scale Rs.775-1025 (RF) is arbitrary. On the contrary, the respondents have stated that the applicant was initially engaged as casual labour Blacksmith in

C. K. Sharma

the Construction Unit at Jaipur but there is no provision to regularise casual labour in Group-C post in the Construction Unit as the applicant has been screened only for the post of Group-D.

4. The learned counsel for the applicant has drawn our attention to para-3 of the Railway Board's instructions dated 9.4.97, which has been taken on the record of this case and which reads as under :-

"3. The question of regularisation of the casual labour working in Group'C' scales has been under considerations of the Board. After careful consideration of the matter, Board have decided that the regularisation of casual labour working in Group'C' scales may be done on the following lines:-

i) All casual labour/substitutes in Group'C' scales whether they are Diploma Holders or have other qualifications, may be given a chance to appear in examinations conducted by RRB or the Railways for posts as per their suitability and qualification without any age bar.

ii) Notwithstanding (i) above, such of the casual labour in Group'C' scales as are presently entitled for absorption as skilled artisans against 25% of the promotion quota may continue to be considered for absorption as such.

iii) Notwithstanding (i) and (ii) above, all casual labour may continue to be considered for absorption in Group'D' on the basis of the number of days put in as casual labour in respective Units."

5. Item (ii) clearly provides that the casual labours working against Group-C posts can be considered for absorption against Group-C posts. Of course, this has to be done in accordance with the seniority position of the persons claiming absorption against these posts. Vacancies have also to be available in order that they can be absorbed against Group-C posts directly against the 25% promotion quota.

6. In the circumstances, we direct that the respondents shall consider the applicant's case for regularisation against a Group-C post against 25% promotion quota, if the applicant is found to be senior enough and he falls within the zone of consideration depending upon the availability of vacancy as per rules in the light of the provisions contained in item-3 of the Railway Board's instructions dated 9.4.97, referred to above. In regard to any other grievance, the applicant may make a representation to the concerned authority and if he is still aggrieved, he may file a fresh OA.

7. The OA stands disposed of accordingly at the stage of admission with the consent of the parties. No order as to costs.

(O.P. SHARMA)
ADM. MEMBER

(GUFAL PRISHNA)
VICE CHAIRMAN