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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 05.03.1998

OA 474/97

Bhag Chand, Motor Vehicle Driver under Chief Engineer (Construction), Western Railway, Ajmer.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. The Chief Engineer (Construction), Western Railway, Jaipur..
3. The Divisional Railway Manager, Western Railway, Jaipur.
4. The Sr.Divisional Engineer (H2), Western Railway, Divisional Office, Jaipur.

... Respondents

CORAM:

HON'BLE MR.GIFAL 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

FER-HON'BLE-MR.GIFAL-KRISHNA,-VICE-CHAIRMAN

Applicant, Bhag Chand, 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 Motor Vehicle Driver from the date of his initial appointment in the pay scale Rs.950-1500, with all consequential benefits. He has also prayed for a direction to the respondents not to reduce his pay and the pay scale.

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 Khalasi on 21.5.87 under the Inspector of Works (Survey & Construction), Western Railway, Phulera. He was promoted as Motor Vehicle Driver w.e.f. 3.2.87. However, the applicant has now been appointed as Gangman in the pay scale Rs.775-1025 (RP), a Group-2 post, in the Engineering Department, Jaipur Division. The grievance of the applicant is that after 10 years of regular service as Driver, he has been regularised as Gangman only in the pay scale Rs.775-1025 (RP) vide Annexure A-1 while he should have been regularised as Motor Vehicle Driver in the pay scale Rs.950-1500 and that not only his designation has been changed to a lower post but his pay scale has also been reduced. He has challenged the action of the respondents as being arbitrary. On the contrary, the respondents have stated that the applicant was promoted as Motor Vehicle Driver on purely ad hoc basis.

and since the applicant has now been declared surplus in the Unit and screened only for a Group-D post, he cannot be retained as Motor Vehicle Driver.

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 in the post of Motor Vehicle Driver, 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

*Chhaya*  
(GOFAL PRISHNA)  
VICE CHAIRMAN

VK