

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

I. O.A.No.367/96

Date of order: 1/5/2007

Amulya Kumar, S/o Sh.Laxman working as Helper under  
Chief Signal Inspector, Phulera, Distt.Jaipur.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, H.Q  
Office, Churchgate, Mumbai.
  2. Chief Signal & Telecom Engineer (M), W.Rly H.Q Office,  
Churchgate, Mumbai.
  3. Divisional Railway Manager, W.Rly, Power House Road,  
Jaipur.
  4. Divisional Signal & Telecom Engineer (M), W.Rly, Jaipur
- ...Respondents.

II. O.A.No.547/97

Amulya Kumar, S/o Sh.Laxman working as Helper under  
Chief Signal Inspector, Phulera, Distt.Jaipur.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, H.Q  
Office, Churchgate, Mumbai.
  2. Chief Signal & Telecom Engineer (M), W.Rly H.Q Office,  
Churchgate, Mumbai.
  3. Divisional Railway Manager, W.Rly, Power House Road,  
Jaipur.
  4. Divisional Signal & Telecom Engineer (M), W.Rly, Jaipur
- ...Respondents.

Mr.P.K.Sharma) - Counsel for applicant

Mr.N.K.Bhat )

Mr.T.P.Sharma - Counsel for respondents.

CORAM:

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

Hon'ble Mr.A.P.Nagrath, Administrative Member.

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

As in both in these O.As the facts are common and common questions law are involved, therefore, we decide both these O.As by a common order.

2. The relief sought by the applicant in O.A No.367/96 is to direct the respondents to regularise the services of the applicant on the post of Painter and to fix him in the pay scale of Painter Rs.950-15000. The relief sought in O.A No.547/97 is to direct the respondents to regularise the services of the applicant and to allow him to appear in the trade test to be held on 29th & 30th Dec.1997.

3. Common facts in these two O.As are that the applicant initially engaged as casual labourer. He was allowed temporary status vide order dated 13.1.87 w.e.f. 1.1.85. It is stated that vide order dated 26.3.87, the pay of the applicant was fixed at Rs.950-1500 w.e.f. 1.1.86 in the revised pay scale. Thereafter, the pay of the applicant was reduced to Rs.750-940 w.e.f. 21.11.87. No notice was given to the applicant before reducing his pay. It is stated that the pay of Rajesh Jangid, Carpenter was reduced similarly but he approached the Tribunal and the Tribunal granted him the relief not to reduce the pay and accordingly he was allowed the pay scale 950-1500 vide order dated 27.10.95. It is stated that the applicant was not allowed to appear in the trade test to be held on 29/30.12.97 vide the impugned order at Ann.A1, therefore, the applicant filed the O.As for the reliefs as above.

4. Reply was filed. In the reply, it is stated that initially the applicant was engaged as casual Khallasi on 21.5.72. It is stated that the applicant was screened by the Committee and was made permanent on the post of Khallasi w.e.f 12.4.94, therefore, the applicant is not entitled to regularisation on the post of Painter. It is stated that Sh.

Rajesh Jangid was initially engaged as casual Carpenter, therefore, the case of the applicant is distinguishable with the case of Shri Rajesh Jangid and the applicant is not entitled to any relief sought for.

5. Heard the learned counsel for the parties and also perused the whole record.

6. Undisputed fact in these cases is that the applicant was initially engaged as casual Khallasi and he was regularised as Khallasi in Group-D in the pay scale Rs.750-940 vide order dated 12.4.94. The counsel for the applicant submits that the applicant is continuously working as painter, therefore, he is entitled to regularisation on the post of Painter, a group-C post but the respondents have regularised the applicant in group-D post of Khallasi. On the other hand, the counsel for the respondents submits that in Railways, the applicant is not entitled to regularisation in Group-C post.

7. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

8. In Jamna Prasad & Ors. Vs. UOI & Ors, SLJ 2000(1) 512, Principal Bench of CAT held that casual labourers in Railways can be regularised in Group-D post only. In Aslam Khan Vs. UOI Full Bench of this Tribunal took the same view and held that casual labourer can only be regularised in Group-D post. As the applicant has already been screened and regularised in Group-D post of Khallasi vide order dated 12.4.94, therefore, in our considered view, the relief sought by the applicant for regularisation in Group-C post is not sustainable, therefore, liable to be rejected.

9. As regards the other reliefs as claimed by the applicant, the counsel for the applicant submits that the applicant is entitled to the pay of painter as he had drawn at the time of revision of pay scales w.e.f. 1.1.86. On the other

hand the learned counsel for the respondents submits that the applicant is getting the pay of Group-D employee from the year 1987 and on the date of his regularisation he was getting the pay of Group-D employee.

10. In O.A No.52/98 Nanga Singh Vs. UOI, decided on 27.1.2000, this Tribunal took the view that in case of regularisation of a casual labourer working in Group-C category, if he is regularised in Group-D post, his pay shall be protected. But in the instant case, the applicant on the date of his regularisation was getting the pay as applicable to a Group-D employee only, therefore, he is not entitled to the the as payable to Group-C employee. The applicant was paid salary in the pay scale Rs.750-940 w.e.f. 20.11.87, it appears that the applicant has not challenged the same, therefore, after lapse of about 8 years, he cannot challenge and say that his pay was reduced arbitrarily, without any basis.

11. Therefore, in our considered view, the applicant has no case for interference by this Tribunal.

12. We, therefore, dismiss O.A No.367/96 and O.A No.547/97 as having no merit with no order as to costs.

(A.P.Nagrath)

Member (A).

(S.K.Agarwal)

Member (J).