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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.249/99

Date of order: 24.8.2000

Rameshwar, S/o Sh.Ram Kumar, R/o Loco Colony, Jaipur, employed as Carpenter under IOW(C)(1), Jaipur in Kota Divn.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, W.Rly, Kota Divn, Kota.
3. Chief Project Manager, W.Rly, Jaipur Divn, Jaipur.

...Respondents.

Mr.Shiv Kumar - Counsel for applicant.

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

CORAM:

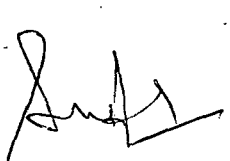
Hon'ble Mr.S.K.Agarwal, Judicial Member

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

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

In this Original Application under Sec.19 of the Administrative Tribunals Act, 19085, the applicant makes a prayer to quash the order dated 4.5.99 (Annx.A1) by which service of the applicant was regularised on the post of Gangman (Group-D) and direct the respondents to regularise the services of the applicant on the post of Carpenter scale Rs.950-1500, Group-C post with all consequential benefits.

2. Reply was filed. In the reply it is stated that the applicant was initially engaged as casual Labourer, therefore, he could be absorbed only against a Group-D post. It is further stated that the applicant cannot be absorbed in Group-C category but he has not been reverted hence his pay was protected by the respondents by regularising his service in Group-D and after absorption the applicant was posted at Kota against the available vacancy. Therefore, it is stated that the applicant has no case and this O.A is devoid of any merit is liable to be dismissed.



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

4. It is not disputed that the applicant was initially engaged as casual labourer and he was granted temporary status. But he is not entitled to regularisation in Group-C post as a candidate in Group-C can be recruited after following the procedure for recruitment/selection and he cannot be regularised on the post. It has been held by the Principal Bench of the Tribunal in Jamna Prasad & Ors Vs. UOI & Ors, 2000(1) SLJ CAT 512 that a casual labour in Railways cannot be regularised in Group-C post and he can only be regularised in Group-D post. It is also a settled legal position that if a person was working in Group-C category and regularised in Group-D post, his pay shall be protected.

5. In view of the settled legal position and facts and circumstances of the case, we are of the considered opinion that the applicant is entitled to protection of his pay on regularisation in Group-D post.

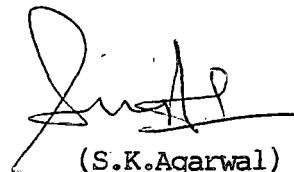
6. On the basis of the above, this O.A is disposed of with the observation that the applicant is not entitled to regularisation in Group-C post as he has already been regularised in Group-D post vide order dated 4.5.99 (Annx.A1) and we do not find any infirmity in this order. Therefore, the order dated 4.5.99 (Annx.A1) cannot be quashed and set aside but at the same time we are of the opinion that the applicant is entitled to protection of his pay. Therefore, while fixing the pay in pursuance of order dated 4.5.99, the pay of the applicant which he was drawing before regularisation in Group-C shall be protected. This order shall not preclude the respondents to take work from the applicant on the post of Carpenter till he is promoted to the post of Carpenter in 25% quota for promotion.

7. No order as to costs.



(N.P.Nawani)

Member (A).



(S.K.Agarwal)

Member (J).