

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER: 19.3.2001

OA 403/2000

Kulwant Singh son of Shri Kartar Singh aged about 53 years resident of C/o Sr. Section Engineer, Vikram Alot, Western Railway at present employed on the post of Thallasi in the office of Sr. Section Engineer, Vikram Alot, Western Railway, Kota Division.

.... Applicant.

VERSUS

1. Union of India through General Manager,
Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (E), Western
Railway, Kota Division, Kota.

.... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. S.S. Hassan, Counsel for the respondents.

CORAM

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

Hon'ble Mr. A.P. Hagrath, Member (Administrative).

ORDER

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

In this OA filed u/s 19 of the Administrative Tribunal's Act, applicant makes a prayer to direct the respondents to protect his pay & allowances drawn on the post of Blacksmith in Group 'C' before his absorption and to allow all consequential benefits including the arrears. Directions are also sought to consider the applicant for regularization in Group 'IC' post of Blacksmith.

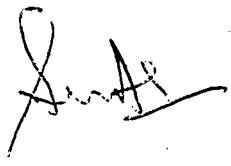
....2/-

2. The applicant was initially engaged as Casual Blacksmith on 11.4.74. He was granted temporary status w.e.f. 21.2.88 vide order dated 12.10.88. The applicant was regularised in Group 'D' of Khallasi in the pay scale of 2550-3200 vide order dated 7.4.2000. It is stated that applicant was continuously working on the post of Blacksmith and he belongs to artisan category. Therefore hhe is entitled to regularisation on the post of Blacksmith in Group 'C' but respondents have not regularised the applicant on the said group 'C' post and regularised the applicant in Group 'D' post of Khallasi which is illegal, arbitrary, discriminatory. Therefore applicant has filed this OA for the relief, as above.

3. Reply was filed. In the reply, it is stated that applicant was not entitled to regularisation on the post of Group 'C' category. The applicant was considered for regularisation in Group 'D' category and accordingly he was regularised. It is stated that a person will first be regularised in Group 'D' post and thereafter he can be promoted in Group 'C' post as per rules. It is stated that applicant was regularized and posted as Khallasi in the scale of Rs. 2550-3200. Therefore, his pay was fixed in the scale of Rs. 2550-3200. Hence applicant is not entitled to protection of pay.

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

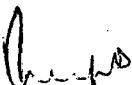
5. The learned counsel for the applicant does not press the prayer of the applicant for regularisation in Group 'C' post. Even on merits applicant is not entitled to regularisation against Group 'C' post . In Jamna Prasad & Others vs. Union of India & Others SLJ 2000(1) 512, PrinciOpal Bench of CAT held that Casual labourers in Railways can be regularised in Group 'D' only. In a judgement delivered by Full Bench of this Tribunal, the same view was taken and it was held that casual labour will be regularised first of all in Group 'D' category and thereafter he can be promoted to

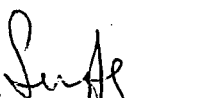


Group 'C' category as per rules.

6. As regards the other relief of protection of pay, the learned counsel for the applicant submits that this Tribunal in OA 52/98 Nanga Singh Vs. Union of India & Others decided on 27.1.2000 took the view that in case of regularisation of a casual labour working in Group 'C' category, if he is regularized in Group 'D' post, his pay shall be protected. We have perused the order passed by this Tribunal. In Nanga Singh vs. Union of India & Others, which is decided on 27.1.2000 in OA 52/98 and this Tribunal held that applicant was entitled to protection of pay in view of the judgement of Hon'ble Supreme Court in Ram Kumar's case.

7. We, therefore, dispose of this OA with the direction to respondents to protect the pay of the applicant in view of the judgement of Hon'ble Supreme Court in Ram Kumar's case cited supra. This order shall not preclude the respondents to permit the applicant to work as Casual Blacksmith till he is promoted in Group 'C' against the quota fixed for Group 'C' post.


(A.P. NAGRATH)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)