

Central Administrative Tribunal
Jabalpur Bench

OA No.1078/04

Indore, this the 18th day of August, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

1. Girdharilal
S/o Chiman Lal
MRCL Masan
Office of ADEN(M)
Central Railway
Itarsi.
2. Baman Rao
S/o Sri Laxman Rao
MRCL Mason
O/o ADEN (M) Central Railway
Itarsi.
3. Laxmi Narayan
S/o Sri Ram Prasad
MRCL Carpenter
O/o ADEN (M)
Central Railway
Itarsi
4. Ram Kishan
S/o Babulal
O/o ADEN (M)
Central Railway
Itarsi.

Applicants.

(By advocate :Shri S.K.Nagpal)

Versus

1. Union of India through
The Chairman
Railway Board
Rail Bhawan
New Delhi
2. General Manager
West Central Railway



Jabalpur

3. Divisional Railway Manager (P)
West Central Railway
Bhopal

4. Asstt. Divisional Engineer (M)
West Central Railway
Itarsi.

Respondents.

(By advocate Shri M.N.Banerjee)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicants have sought the following reliefs:

- (i) Quash the order-dated 2.2.04 (Annexure A7).
- (ii) Direct the respondents to regularize the applicants as Mason/Carpenter in the scale of Rs.3050-4590 with all consequential benefits.
- (iii) Award interest @18% per annum on the amount of arrears of pay and allowances admissible to the applicants.

2. Brief facts of the case are that the applicants who were initially appointed in 1983/1987 as M.R.Khalasi in the Central Railway are working as MRCL Masons/Carpenter. In 1988, a trade test was conducted to fill up the vacancies of Artisan STF from MRCL artisan staff. The applicants appeared in the test and were successful. Vide letters dated 31.10.01 (Annexure A4 to A6), the applicants were regularized in Group-D posts in the grade of Rs.2550-3200 while they were working as MRCL Masons which is a Group-C post. This amounted to their reversion/reduction to lower pay scale. Even pay protection was not granted to the applicants. They submitted representation against the illegal orders. On failing to get reply, they filed OA No.655/02 which was disposed of by this Tribunal vide order dated 6th July 2004 directing the respondents to consider the pending representations of the applicants and take a decision by passing a speaking, detailed and reasoned order. However, the



representations of the applicants have been rejected by respondent No.3 without application of mind. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicants that the applicants have been working since 1988 against the available vacancies. They had undergone trade test and were selected against 12.5% quota meant for MRCL Artisan Staff. Hence they should have been regularized as Mason/Carpenter in the scale of Rs.3050-4590. The applicants are suffering financial loss of approximately Rs.1000/- per month without any justification. One Shri Ashok who was posted as MRCL Khalasi was regularized and subsequently promoted as Mason Grade II. The applicants should have also been similarly regularized. This amounts to hostile discrimination on the part of the respondents. The case of the applicants is also covered by the decision of the Tribunal passed in OA 396/87, 870/97, 871/97 and 906/97.

4. In reply, learned counsel for the respondents argued that the respondents have considered all facts and contentions raised by the applicants while passing the impugned order and also the directions given by the Tribunal in OA No.655/02 vide order dated 6th July 2004. The learned counsel further argued that the Hon'ble Supreme Court has held in the case of Union of India Vs. Motilal & Ors. reported in 1991 SCC (L&S) 613 that casual labour has to be regularized in a Group-D post before regularizing in Group-C post, however long a person might have worked in Group-C post. This ruling is also mentioned in the order passed by Mumbai Bench of CAT in the case of Shri Ramchandra Gummana Vs. The General Manager. He has drawn our attention towards Annexure R5, which is an order of this Bench of the Tribunal passed in OA No.288/98 in the case of Kishanlal Ahirwar Vs. UOI & Ors. and argued that the present case is squarely covered by the aforesaid two judgments and the ruling of the Hon'ble Supreme Court.

5. After hearing learned counsel for both sides and careful perusal of the records, we find that the Supreme Court has held in the case of



Union of India Vs. Motilal & Ors., (Supra) that casual labour has to be regularized in a Group-D post before regularizing in Group-C post, however long a person might have worked in Group-C post. This ruling is also mentioned in the order passed by Mumbai Bench of CAT in the case of Shri Ramchandra Gummana Vs. The General Manager. In view of the above rulings, this Tribunal cannot grant the relief to the present applicants. We have also perused the order of the Jabalpur Bench of the Tribunal passed in OA No.288/98 in the case of Kishanlal Ahirwar Vs. UOI & Ors. in which the Tribunal has held that "the issue now finally rests with the decision of the Apex Court in case of Union of India Vs. Moti Lal, 1996 SCC (L&S) 613, which was followed in by the Full Bench of this Tribunal in Aslam Khan Vs. Union of India, 2001 (2) ATJP page 1, wherein it has been held that even if temporary status has been granted against a Group-D post, regularization can only be against a Group-D post. However, on regularization on a Group-D post the pay as was being drawn before regularization shall be protected and shall not be reduced". We have perused the impugned order, which is speaking and reasoned.

6. Considering all facts and circumstances of the case, we are of the considered view that the respondents have not committed any irregularity or illegality. The OA has no merit and is dismissed accordingly. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पूरांकन सं ओ/व्या.....जबलपुर, दि.....
पलिलिपि अथो दिहः--

- (1) सदिय, उमा उम कालम सार एकेसिदरम, जबलपुर
- (2) आलेख श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) गंधपाल, के.प्र.अ., जबलपुर जगतकीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

70922
24.8.05