

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 116 of 2004

Jabalpur this the 24<sup>th</sup> day of November, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. A.K. Bhatnagar, Judicial Member

Mukteshwar Singh S/o Jagdish Singh  
Aged about 42 years R/o Village Birchandra  
Post-Tarifaragaon Distt. Baliya

APPLICANT

(By Advocate - Shri Atul Nema)

VERSUS

1. Union of India, through Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. The General Manager, Central Organisation, Railway Electrification(CORE), Allahabad (U.P.)
3. The General Manager, West Central Railway, Jabalpur.
4. Divisional Railway Manager(Personnel), Central Railway, Bhopal Division, Bhopal.
5. Chief Electrical Engineering (Project) Railway Electrification, Danapur.

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

ORDER

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the following main reliefs :-

"(i) A writ in the nature of certiorari may please be issued for quashing the impugned orders dated 3.3.1998(Annexure-A-1) and dated 19.5.1998 (Annexure-A-2), passed by the respondent No.7, regularizing the applicants against the post of Khalasi.

(ii) A writ in the nature of mandamus may please be issued commanding the respondents to regularise the applicants either as Chargeman-B and/or Inspector of works Grade-III in the pay scale of Rs.1400-2300/- as has been done in the case of similarly situated other diploma holders in Central Railway."

3. The brief facts of the case are that the applicant was appointed on daily wages as Casual Work Supervisors by the respondents because of acute shortage of Inspector of Works and also Chargeman-B for Over Head Electricification work. Persons holding Diploma in Civil Engineering were engaged in vacancies of I.O.Ws. whereas persons holding Diploma in Electrical Engineering were engaged against the vacancy of Chargeman-B. The applicant has stated that earlier one O.A. No.161 of 194(Gyanendra Singh Kushwaha and 9 others Vs. Union of India) was filed before the Tribunal. The applicants in the said OA were also petitioners before the Hon'ble Supreme Court in W.P.No.965/1988(Manoj Kumar Shrivastava & 17 Others Vs. Union of India & 21 others). The Tribunal vide its order dated 27.7.1994(Annexure-A-9) in the case of Gyanendra Singh Kushwaha(supra) has directed the respondents to consider regularisation of the applicants therein on the post of Inspector of Works Grade-III by giving them effective opportunity to appeal before the Railway Recruitment Board or in alternative to consider extending them same treatment as has been meted out to similarly placed persons by the South Eastern Railway. The applicant has contended that despite the above referred judgment, no adequate opportunity was given to the applicants in OA 161/94, hence some of them filed another OA 398/1995(Shri G.S.Kushwaha & Ors. Vs. Union of India & Ors.) in which the Tribunal vide order dated 29.2.1996 directed the respondents to constitute a screening committee and consider the case of the applicants as permissible under the law as has been done by the South-Eastern Railway. As service of the present applicant was not regularised, although he was petitioner before the Apex Court, two different OAs.Nos.455/1996 (B.K.Mishra & Ors. Vs. UOI) and 456/1996(Girish Chandra Rajpoot & 23 Ors. Vs. UOI & Others) were filed before the Tribunal which were decided by the Tribunal vide common order dated 4.11.1996. In the said OAs the relief was for regularisation of the applicants therein as Electrical Chargeman 'B' and IOW Gr.III and vide a separate application it was further prayed to allow.

the applicants therein to continue in their present places of posting as they were posted out of Bhopal Division. Despite the fact that number of similarly situated persons were regularised, three separate OAs. Nos. 379/97 (Pramod Kumar Verma & 9 Others Vs. Union of India & Others), 352/97 (Vinod Kumar Khare & 5 others Vs. Union of India and others) and 452/1997 (Santosh Kumar Khare & ors. Vs. Union of India & Ors) were filed before this Tribunal, which were decided by common order dated 10.3.1998 in favour of the applicants, in these cases. The applicants have contended that the respondents ought to have regularised him like similarly other persons. Instead of this, they have in a great hurry regularised the applicant's services as 'Khalasis' in the pay scale of Rs. 750-940 (pre-revised) vide impugned order dated 3.3.1998 and 19.5.1998, hence he has filed the present OA claiming the aforesaid reliefs.

4. Heard the learned counsel of both the sides.

5. The learned counsel for the applicant has contended that the present OA is fully covered by the judgment of this Tribunal in O.A. No. 577 of 1998 (Devendra Kumar Pnadey & 20 Ors Vs. Union of India & Others); O.A. No. 604 of 1998 (D.K. Pare & 14 others Vs. Union of India & others); O.A. No. 435 of 2000 (Vijay Kumar & 2 others Vs. Union of India & Ors.); and O.A. No. 769 of 2001 (Ajay Kumar Tripathi Vs. Union of India and others) decided by a common order dated 12.3.2003 (Annexure-A-23) xxxxxxxxxxxxxxxx wherein also the orders dated 3.3.1998 and 19.5.1998 were challenged.

6. We have carefully perused the aforesaid order dated 12.3.2003 passed by the Tribunal in aforesaid cases and we find that the facts of the present case are similar to those OAs decided by the Tribunal vide order dated 12.3.2003. In the said order dated 12.3.2003 the Tribunal has held as follows -

"5.1 There is no dispute that the post of IOW Gr. III/ Chargeman is a selection post. The same is to be filled up by holding a screening test as has been

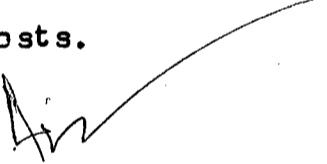
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directed in the case of G.S.Kushwaha in OA 398/1995 vide order dated 29.2.1996. In case there are not enough number of vacancies for the regularisation of the present applicants, they need not be reverted to Group-D posts and may be continued in the present status wherever they are working or if there is no work in that project, they may be adjusted in any other project where such work is still in progress. At the cost of repetition, it is clarified that all these applicants are entitled to be given same treatment and benefits as have been given to G.S. Kushwaha and others in OA 398/1995.

6. In the result, these Original Applications are allowed. The respondents are directed to give effect to this order within a period of three months from the date of communication of this order. The parties are directed to bear their own costs."

7. Since the present OA is fully covered in all fours by the order of this Tribunal dated 12.3.2003 in the case of Devendra Kumar Pandey (supra) & connected cases, we direct that the aforesaid order dated 12.3.2003 shall be mutatis mutandis applicable in the case of the present applicant as well.

8. In the result, the OA is allowed. The respondents are directed to give effect to this order within a period of three months from the date of communication of this order. No costs.

  
(A.K. Bhatnagar)  
Judicial Member

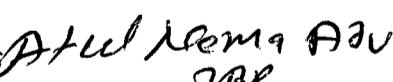
  
(M.P. Singh)  
Vice Chairman

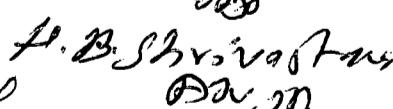
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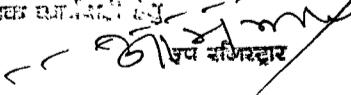
पूर्णांकन सं. ओ/वा. .... जवाहरपुरा, दि. ....  
सुनितराम अर्पण (संग्रहीत) —

- (1) सरकारी, अन्य स्थानान्तर वा अन्य विवर, जवाहरपुरा
- (2) आवेदन वी/सी/सी/ए/..... नं. अवासाल
- (3) प्रत्यक्षी (प्राप्ति/प्राप्ति/प्राप्ति) वा अन्य विवर
- (4) बालगल, लैपटो, वा अन्य विवर

सूचना एवं आवेदन वाली विवर

  
Atul Kumar Adv  
OAB

  
H.B. Srivastava  
Adv

  
Jay Singh

Issued  
on 3-12-04  
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