

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Applications Nos. 522/03 & 715/03

Gwalior, this the 25th day of August, 2004

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

(1) Original Application No. 522/2003

1. B.K. Mishra, son of Shri Babulal Mishra, aged about 42 years, R/o 227/B, Railway Colony, Habibganj, Bhopal.
2. R.K. Sharma, S/o Shri N.K. Sharma, aged about 39 years, R/o. C/o Amar Singh Patel, Near Umaria Bus Stand, Umaragaon, Surat, Gujarat.
3. S.N. Shukla, S/o Shri Brindavan Shukla, aged about 38 years, R/o 34-F, Samai Vihar Colony, Alambagh, Lucknow.

APPLICANTS

(By Advocate - Shri Atul Nema)

VERSUS

1. Union of India, through Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. Railway Board through its Chairman, Rail Bhawan, New Delhi.
3. The General Manager, Central Organisation, Railway Electrification(CORE), Allahabad(U.P.)
4. The General Manager, Central Railway, Mumbai(CST).
5. Chief Personnel Officer, Central Railway, General Manager's Building, Mumbai(CST).
6. Chief Personnel Officer, Central Organisation Railway Electrification, Allahabad(U.P.).
7. Divisional Railway Manager(Personnel). Central Railway, Bhopal Division, Bhopal
8. Chief Electrical Engineer(Project), Railway Electrification, Near KKC, Charbagh, Lucknow - 226 001.

RESPONDENTS

(By Advocate - Shri Ashok Sinha on behalf of Shri S.P.Sinha)

(2) Original Application No. 715/2002

1. Ashok Pal Singh, S/o Shri C.P. Singh aged about 42 years, R/o 134, Model Town, Ambala City.



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2. Rajendra Sharma, S/o Shri J.P. Sharma aged about 38 years, R/o 583/01, Sainik Colony, Roorkee.
3. P.L. Jayaswal, S/o Shri G.P. Jayaswal, aged about 46 years, R/o.50 Adarsh Nagar, Model Town, Ambala City.
4. H.S. Parihar, S/o Shri R.S. Parihar, aged about 41 years, R/o 71, Adarsh Nagar, Model Town, Ambala City.
5. S.N. Tiwari, S/o Shri D.P. Tiwari, aged about 46 years, R/o.82 Adarsh Nagar, Model Town, Ambala City.
6. Narmada Prasad Choudhary, S/o late Nandlal Choudhary, aged about 45 years, R/o Post Office Pathrota, Itarsi, Distt. Hoshangabad.

APPLICANT

(By Advocate - Shri Atul Nema)

VERSUS

1. Union of India, through Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. Railway Board through its Chairman, Rail Bhawan, New Delhi.
3. The General Manager, Central Organisation Railway Electrification(CORE), Allahabad.
4. The General Manager, West-Central Railway, Jabalpur, M.P.
5. Divisional Railway Manager, West-Central Railway, Bhopal Division, Bhopal, M.P.

RESPONDENTS

(By Advocate - Shri Ashok Sinha on behalf of Shri S.P.Sinha)

COMMON ORDER

By M.P. Singh, Vice Chairman -

The issue involved in both the OAs is common and facts and grounds are similar, for the sake of convenience these OAs are being disposed of by this common order.

2. By filing these OAs, the applicants have sought the following main reliefs :-

"(i) A writ in the nature of certiorari may please be issued for quashing the impugned orders dated 3/3/98(Annex.A/1) and dated 19/5/98(Annex.A/2), passed by the respondent No.5/7 regularising 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 Chargeeman-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 both the cases are that the applicants were appointed on daily wages as Casual Work Supervisors by the respondents because of acute shortage of Inspector of Works and also Chargemen-B for Over Head Electrification 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 Chargemen-B. The applicants have stated that earlier one O.A.No.161 of 1994 (Gyanendra Singh Kushwaha and 9 others Vs.Union of India & others) 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 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 appear 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 applicants have 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 services of the present applicants were not regularised, although they were petitioners 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. 379/1997 (Pramod Kumar Verma & 9 others Vs. Union of India & others), 352/1997 (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 them like similarly other persons. Instead of this, they have in a great hurry regularised the applicants' services as 'Khalasis' in the pay scale of Rs.750-940 (pre-revised) vide impugned order dated 3.3.1998. The applicants are very much aggrieved by the orders dated 3.3.1998 and 19.5.1998, hence they have filed the present OAs claiming the afore-mentioned reliefs.

4. Heard the learned counsel of both the sides.
5. The learned counsel for the applicants has contended fully that both these OAs are/covered by the judgment of this Tribunal in O.A.No.577 of 1998 (Devendra Kumar Pandey & 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 to OA 715/2003) 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 these 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 IDW Gr. III/ Chargeman is a selection post. The same is to be filled up by holding a screening test as has been 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 both the present OAs are 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 applicants as well.

8. In the result, both the OAs 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.

No costs.


(A.K.Bhatnagar)
Judicial Member


(M.P.Singh)
Vice Chairman

rkv.

पृष्ठांकन अं. ओ/ज्या..... ज्ञानपुस्तकालय, दिल्ली
संस्थानी परिषद काली बाजार, दिल्ली

(1) अधिकारी विभाग, ज्ञानपुस्तकालय, दिल्ली

(2) अधिकारी विभाग, ज्ञानपुस्तकालय, दिल्ली

(3) अधिकारी विभाग, ज्ञानपुस्तकालय, दिल्ली

(4) अधिकारी विभाग, ज्ञानपुस्तकालय, दिल्ली

सूचना एवं विवरण विभाग, दिल्ली

Atul Nema

S P Singh

उप विभागीय


T.S. Singh
1-9-04