

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 655/02

(Bilaspur) this the 6th day of July, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

1. Girdharilal s/o Chiman Lal
Aged 42 years, M.R.C.L. Mason,
Office of ADEN (M).
2. Baman Rao s/o Sri Laxman Rao,
Aged about 42 years,
MRCL Mason, O/O ADEN (M)
Central Railway, Itarsi.
3. Laxmi Narayan s/o Sri Ram Prasad,
Aged about 46 years, MRCL Carpenter,
O/O ADEN (M), Centrail Railway,
Itarsi.
4. Ram Kishan s/o Baboolal,
Aged about 43 years,
MRCL Carpenter, 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,
Central Railway,
Mumbai.
3. Divisional Railway Manager (P),
Central Railway, Bhopal.
4. Asstt. Divisional Engineer (M),
Central Railway, Itarsi.Respondents.

(By Advocate: Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member -

By filing this O.A., the applicants have sought the following main reliefs:-

- a) to quash the impugned order dated 2.2.2002(A/1)
- b) direct the respondents to regularise the applicants in the scale of Mason/Carpenter Rs. 3050-4590/- with all consequential benefits.
- c) direct that consequent to above, the arrears of pay and allowances admissible to the applicants be paid within 3 months with interest @18%thereon.

2. The brief facts of the case are that the applicants were initially appointed in the year 1983/1987 as M.R. Khalasi in the Central Railway. Thereafter in the year 1988, applicants nos. 1 & 2 were deployed as MRCL Mason and applicants nos. 3 and 4 were deployed as MRCL Carpenter under respondent no. 4 and since then they have been working as MRCL Masons/Carpenters. In the year 1988, a trade test was conducted to fill up the vacancies of Artisan STF from MRCL artisan staff. The applicants appeared in the aforesaid trade test and were declared successful. The respondent no. 4 submitted its report with regard to/test to respondent no. 3 vide its letter dated 25.5.1988/22.11.1988 (A/3). To the surprise of the applicants they were issued letters dated 31.10.2001 (A/4 to A/7) to the effect that they were regularised in Group 'D' posts in the grade of Rs. 2550-3200 and they should assume their charge immediately. The applicants are working as MRCL Masons/Carpenters i.e. Group 'C' posts in the scale of Rs. 950-1500 (revised Rs. 3050-4590) from 1988. Therefore, by the said act of the respondents, the applicants are reverted/reduced to lower scale of pay. In pursuance of the letter (Annexure A/4 to A/7) issued by respondent no. 3 the respondent no. 4 has issued the impugned orders dated 2.2.2002 (A/1) by which the applicants have been regularised in the Group 'D' posts in the scale of Rs. 2550-3200 and posted as Khalasi. The applicants against the said impugned order submitted their representations (Annexure A-8 to A-11) to the respondents no. 3 but they have not received any reply so far. Hence, this O.A. has been filed by the applicants seeking the aforesaid reliefs.

3. Heard the learned counsel for the parties.

4. Learned counsel for the applicants argued that the applicants appeared in the trade test in the year 1988 and they were declared successful in the said trade test and respondent no. 4 submitted its report with regard to the said trade test. The counsel further argued that the applicants

(Signature)

were discharging their duties as MRCL Masons/Carpenters sincerely, honestly and with utmost devotion and there was no complaint against them but the respondent no. 4 issued the impugned order by which they have been regularised as Group 'D' employees instead of Group 'C' employees in the already posts of MRCL Mason/Carpenters in which they have been/working, which amounts to reversion/reduction to a lower scale. It is further argued that before imposing the said penalty, no show cause notice was issued to the applicants. Learned counsel drawn our attention towards para no. 2007 of the I.R.E.M. which supports the version of the applicant's counsel and also drawn our attention towards the order dated 2.2.1994 passed by the Tribunal in O.A. No. 396/87 in which it was observed that "the applicant was not thrown out but engaged on a lower post. However, we cannot understand as to why care was not taken at subsequent stage to restore back the applicant to the post of Carpenter in the grade of Rs.260-400(unrevised). The principles of natural justice demand that the applicant should be restored back to the post of Carpenter as soon as possible." It is further argued that the applicants have served for about 14 years from their initial appointment in the year 1988 but by the impugned order, they are reverted to the lower post even after passing the trade test and that too without assigning any reason. Hence, the impugned order is illegal, ultra-vires and liable to be set aside.

5. In reply, the learned counsel for the respondents argued that the averments of the applicants that they have qualified the trade test in the year 1988 is not factually correct in view of the fact that the result of the trade test was not approved by the competent authority and no one was promoted against the said trade test. The Annexure A/3 is only a communication and not an approved result by the competent authority. The Divisional Railway Manager (P), Bhopal vide letter 28.11.1997 regularised the applicants as Group 'D' in the scale of Rs. 750-940(pre-revised) and hence

it is not a case of reversion of the applicants. As the applicants had not resumed their posts on regularisation, the D.R.M. (P) vide its letter dated 31.10.2001 (A/4 to A/7) asked the applicants to join the post on regularisation otherwise they will not get the benefit of regular services. As per IREM 1990 Vol.I Para 159(1) the vacancies in the category of skilled Artisan Gr.III in the scale of Rs. 950-1500 (RPS) revised grade Rs. 3050-4590 is filled on fulfilling certain conditions. Casual labourers have to be regularised in a group 'D' post before regularisation in Group 'C' post, however long a person might have worked in Group 'C' post. It is further argued that the applicants were initially appointed in Group 'D' category only in Railway service and they do not possess the educational qualification for direct recruitment in Group 'C' post i.e. skilled artisan category- or ITI/course completed Act Apprentice, so they are rightly regularised in group 'D' posts by the impugned orders.

6. After hearing the learned counsel for the parties and careful perusal of para 2007, (3) of I.R.E.M. we find that the said para supports the claim of the applicants, which reads as under:-

"(3) Casual labour engaged in work charged establishment of certain Departments who get promoted to semi-skilled, skilled and highly skilled categories due to non-availability of regular department candidates and continue to work as casual employees for a long period, can straightaway be absorbed in regular vacancies in skilled grades provided they have passed the requisite trade test...."

In the present case the applicants were initially appointed as M.R. Khalasi but thereafter in the year 1988 they were deployed as MRCL Masons/Carpenters and since then they have been performing their duties most efficiently, honest and without any complaint from their superior officers. Moreover, they have also qualified the requisite trade test. The Tribunal has also decided an OA No. 396/87 directing the respondents to restore the applicant therein back to the post of Carpenter. During the course of arguments, learned counsel for the



respondents submitted that the representations of the applicants filed as per Annexure A-8 to A-11, which are pending for decision with the respondents, shall be decided within the stipulated time as directed by the Tribunal.

7. In the facts and circumstances of the case and in view of the statement made by the learned counsel for the respondents, we deem it appropriate to direct the respondents to consider the representations of the Applicants annexed as Annexure A-8 to A-11 and take a decision by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of a copy of this order, keeping in view the observations made above and the decision of this Tribunal rendered in O.A. No. 396/87, referred to above. We do so accordingly. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

| NA |

पूर्णांकन सं. ओ/न्या.....
प्रतिरिद्दि दिन.....
(1) रासित, उत्तराखण्ड विधानसभा के कार्यसल
(2) आकेशवाला विधानसभा के कार्यसल
(3) प्रसादी विधानसभा के कार्यसल
(4) चंडीगढ़ विधानसभा के कार्यसल
सूचना एवं अवश्यक वार्ताएँ की
S K Nagpal
MN Banerjee
Rajendra
उपर्युक्त दिन

Issued
On 15.7.04
By