

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the ¹⁵ ~~30~~ day of July, 2010

Original Application No. 221/2006

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. K.S.SUGATHAN, MEMBER (ADMV.)

Bhairulal/s/o Shri Prabhulal,
presently residing at near Shiv Mandir,
Station Road, Talera, Bundi and presently posted as
Khallasi, under the Deputy Chief Engineer (C),
West Central Railway, Kota

... Applicant

(BY Advocate: Shri Rajvir Sharma)

Versus

1. Union of India
through General Manager,
West Central Railway, Jabalpur.
2. Divisional Railway Manager,
West Central Railway,
Kota Division, Kota.
3. Dy. Chief Engineer (C),
West Central Railway, Kota.

... Respondents

(By Advocate: Shri Tej Prakash Sharma)

O R D E R

Per Hon'ble Mr. M.L.Chauhan, M(J)

The applicant has filed this OA thereby praying for the following reliefs:-

(a) By an appropriate order or direction your Lordships may be pleased to accept and allow the O.A. as prayed and be further pleased to quash and set aside the

impugned order dated 13.3.2006 (Annexure-1) and the respondents may be directed to post the applicant as Gangman in the pay scale of Gangman with all consequential benefits. The arrear of difference of pay and allowance may also be paid to the applicant with interest @ 12% p.a. The respondents may be further directed to incorporate the name of the applicant in the seniority list of Gangman prepared by the Open Line.

- (b) The respondents may be directed to also consider the case of promotion in the next higher grade post to the Gangman since the date his juniors have been promoted with all consequential benefits.
- (c) Any other order or direction which this Hon'ble Tribunal may deem fit and proper be also passed.

2. When the matter was listed on 25.3.2010, this Tribunal passed the following order:-

"The applicant has challenged the impugned order dated 13.3.2006 whereby he has been posted as Khallasi. The grievance of the applicant is that his service was regularized as Gangman, as such the impugned order dated 13.3.2006 is required to be quashed with all consequential benefits and the respondents may be directed to grant to the pay scale of Gangman, which post the applicant is holding. From Para No.4.1 of the reply, it is also evident that the applicant, who was no doubt working in the capacity of Khallasi and was granted temporary status in the scale of Khallasi and was regularized as Gangman. There is nothing on record to suggest that this order of regularization/absorption of the applicant as Gangman has ever been superseded.

Thus, in view of what has been stated above, it is not permissible for the respondents to deny the pay scale of Gangman to the applicant and also to post him on the post of Khallasi, as admittedly according to the respondents, the cadre of Gangman and Khallasi are different.

Learned counsel for the respondents wants to clarify this position and to make further submission.

..."

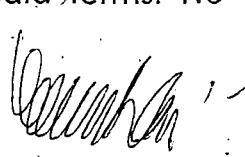
3. Despite repeated opportunity granted to the respondents, the respondents have not filed any affidavit. When the matter was taken

up for hearing on 23rd July, 2010, the matter was heard in part and the same was adjourned to 28.7.2010 on the request of the proxy counsel for the respondents. Further, at the time of further hearing of the matter on 28.7.2010, the respondents have neither filed any affidavit in terms of the order dated 25.3.2010 nor satisfied this Tribunal as on what basis they justify the impugned order dated 13.3.2006 (Ann.A/1) mentioning the applicant as Khallasi and posting him under AXEN (C) RMA which is a lower post. Since services of the applicant were regularized against the higher post of Gangman in the pre-revised scale of Rs. 775-1025, as can be seen from the order dated 1.10.1997 (Ann.A/2) at page 14 of the paper book where name of the applicant find mention at Sl.No.5 and his designation has been shown as Gangman, it is not permissible for the respondents to post the applicant against the lower post of Khallasi.

4. In view of what has been stated above, we are of the view that the applicant has made out a case for grant of relief. Accordingly, the impugned order dated 13.3.2006 (Ann.A/1) is quashed and respondents are directed to post the applicant against the post of Gangman against which post his services were regularized.

5. The OA shall stand disposed of in the aforesaid terms. No costs.


(K.S.SUGATHAN)
Admv. Member


(M.L.CHAUHAN)
Judl. Member

R/