

(2007) 11 PAT CK 0069

Patna High Court

Case No: None

Mohd. Kamo

APPELLANT

Vs

The Union of India
(UOI) and Others

RESPONDENT

Date of Decision: Nov. 6, 2007

Citation: (2008) 2 PLJR 70

Hon'ble Judges: Mihir Kumar Jha, J; Chandramauli Kr. Prasad, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. This application has been filed for quashing the order dated 15.9.2006 passed by the patna bench of the Central Administrative Tribunal whereby the original application filed by the petitioner has been dismissed.

2. The facts as narrated in the writ application are that the petitioner was engaged as unskilled casual refrigerator mechanic on daily wages @ Rs. 7.50/- per day. He worked, as such, from 9.5.1981 to 7.7.1981, 16.7.1981 to 14.9.1981 and 6.4.1982 to 4.7.1982 and attained temporary status and was appointed as substitute khalasi in the year 1984 in the pay scale of Rs. 196-232/-. Thereafter, he was subjected to screening test and being successful given regular appointment with effect from 7.5.1994 on a group-D post. In due course he was promoted as Khalalsi Helper in the scale of pay of Rs. 2630-4000/- with effect from 20.3.1996.

3. He accepted the aforesaid appointment and promotion without any murmur but filed application before the Tribunal in the year 2003 which was registered as O.A. No. 87 of 2003 claiming regular appointment on a Grade-C post inter alia claiming that he is skilled Refrigerator Mechanic. The Central Administrative Tribunal, Patna Bench, disposed of the said application at the admission stage itself by order dated 24.1.2003 directing the respondent to decide his representation. His representation was rejected. Petitioner aggrieved by the same filed another application before the

Tribunal which was registered as O.A. No. 946 of 2003 and by order dated 11.11.2003 the said application was disposed off with a direction to pass a reasoned and speaking order. Aforesaid direction was given on the basis that earlier representation of the petitioner was disposed of by a cryptic order. In the light of the aforesaid orders of the Tribunal, the representation of the petitioner has been disposed of by a speaking order dated 12.9.2004 (Annexure-2).

4. Petitioner aggrieved by the same preferred application before the Tribunal which led to the passing of the impugned order. In the representation as also before the Tribunal the petitioner claimed that he be... given benefit of a skilled mechanic instead of unskilled mechanic since the day of his initial engagement in the year 1984. Aforesaid plea was taken on the basis of a general circular of the Railways dated 20.12.1985 (Annexure-1) . The Tribunal as also the authority had rejected his claim on the ground that the circular of the Railway dated 20.12.1985 is applicable to the case of skilled workmen and not the unskilled one.

5. Mr. Goutam Bose appearing on behalf of the petitioner submits that two persons, namely, Shyam Lal and Javed Ahmad Khan have been regularised on Grade-C post, who were initially engaged in the same wages as that of the petitioner and, as such, in his case the respondents have acted discriminately. Although such a plea was raised before the Tribunal also but no material was placed to show that those persons were also initially engaged as unskilled workmen. Accordingly, the Tribunal negatived the aforesaid contention. However, in the present appeal, the petitioner had placed on record the letter of appointment of the aforesaid-persons as casual Refrigerator Mechanic on payment of Rs. 1350 per day on the post sanctioned by the order dated 13.10.1983. It is not in dispute that the post of casual Refrigerator Mechanic is a skilled post and therefore, the aforesaid persons, with whom the petitioner is seeking parity is absolutely misconceived. Those persons were appointed as casual Refrigerator Mechanic which is a skilled post.

6. Mr. Bose then contends that in view of the decision of the Supreme Court in the case of Sh. Chhajjoo v. Union of India and Ors. reported in 2002(1) SLJ 226, there is no impediment in considering the case of the petitioner for absorption in Group-C post. As stated earlier the petitioner was claiming for regular appointment. He was appointed as such on Group-D post with effect from 7.5.1994. In that view of the matter, the decision relied on has no bearing on the facts of the present case.

7. We do not find any merit in this application. It is dismissed accordingly.