

COMMITTEE ON PETITIONS

(TENTH LOK SABHA)

TWENTY THIRD REPORT



[Presented to Lok Sabha on 7 December, 1995]

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1995/Agrahayana, 1917 (Saka)

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COMMITTEE ON PETITIONS

(TENTH LOK SABHA)

Corrigenda to the Twenty third Report of
Committee on Petitions (Tenth Lok Sabha)

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COMPOSITION OF THE COMMITTEE ON PETITIONS
(1994-95)

Shri P.G. Narayanan — *Chairman*

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3. Shri Naresh Kumar Baliyan
4. Shri Prataprao B. Bhosale
5. Shri Lokanath Choudhury
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TWENTY-THIRD REPORT OF THE COMMITTEE ON PETITIONS
(TENTH LOK SABHA)

INTRODUCTION

I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Twenty-Third Report of the Committee to the House on the following matters:

- I. Representation from temporary technical staff of Railway Electrification Organisation, South Central Railway, Secunderabad, for regularisation in the grade of Rs. 1400—2300.
 - II. Action Taken by Government on the recommendation of the Committee on Petitions contained in their Ninth Report (Eighth Lok Sabha) and Fourth Report (Tenth Lok Sabha) on the representation regarding recognition of Marthily University.
2. The Committee considered the draft Report at their sitting held on 4 December, 1995 and adopted it.
 3. The observations/recommendations of the Committee on the above matters have been included in this Report.

NEW DELHI;
4 December, 1995

Agrahayana 13, 1917 (Saka)

P.G. NARAYANAN,
Chairman,
Committee on Petitions.

REPRESENTATION FROM TEMPORARY TECHNICAL STAFF OF RAILWAY ELECTRIFICATION ORGANISATION, SOUTH CENTRAL RAILWAY, SECUNDERABAD, FOR REGULARISATION IN THE GRADE OF RS. 1400—2300

Shri Konathala Ramakrishna, MP, submitted a representation signed by Shri P.V. Ramana and 28 others of South Central Railway, Secunderabad, for regularisation in the grade of Rs. 1400—2300.

1.2 The main points raised in the representation are as follows:

- (i) The staff of Metro Railway, Calcutta, were initially engaged as casual Khallasis and were given temporary status in the grade of Rs. 750—940. Without first regularising them as Khallasis in the grade of Rs. 750—940 as per rules, they were promoted to higher grade of Rs. 1400—2300 and Railway Board, when approached, considered their regularisation in the grade of Rs. 1400—2300 as a special case in violation of rules and the direction given by Central Administrative Tribunal (CAT), Calcutta, in the matter.
- (ii) The staff of S.C. Railways were initially engaged as casual Technical Mates in the grade of Rs. 950—1500 and were given temporary status in that grade. At present, they are in grades of Rs. 1200—1800, Rs. 1200—2040 and Rs. 1320—2040. When the Railway Board was approached for their regularisation in the grade of Rs. 1400—2300 on the lines of Metro Staff case, the Board considered for their regularisation in the grade of Rs. 950—1500 only, in violation of the Supreme Court's directions to give the petitioners an opportunity to appear before the RRB for selection to the post in accordance with their suitability and qualifications for such posts.

The representationist has, therefore, requested that the staff of S.C. Railway who are diploma holders in Engineering and working in scales of Rs. 1200—1800, 1200—2040 and 1320—2040 may be regularised in the grade of Rs. 1400—2300 in the manner similar to that of Metro Railway.

1.3 The representation was referred to the Ministry of Railways (Railway Board) for furnishing their factual comments. In their reply dated 27 September, 1993 (*see* Appendix—I), the Ministry have *inter alia* stated as under:

- (i) In the case of Metro Railway, Calcutta, Casual Works Supervising Mistries holding diploma in Civil Engineering referred to in the representation, were already working in the grade of Rs. 1400—2300 when the proposal for their regularisation came up. The Ministry (Railway Board) after duly considering the proposals, have agreed that their services may be regularised, as a special case, as IOW Gr. III in scale of Rs. 1400—2300 (RPS) against 75% Direct Recruitment Quota by restricting the field to these staff.

- (ii) The case of casual technical mates of South Central Railway was considered in accordance with extant rules and as per directions given by the Supreme Court in its judgement in a similar case in the Central Railways. Therefore, the South Central Railway case does not warrant any reconsideration.

1.4 An extract of the Ministry's reply dated 27.9.93 was forwarded to Shri Konathala Ramakrishna, MP, for perusal and his comments, if any. In reply, Hon'ble Member sent a list of points (see Appendix II) arising out of the aforesaid Ministry's reply. A copy of the same was forwarded to the Ministry for further comments.

1.5 In their reply dated 12.5.94 the Ministry have given almost a similar reply stating *inter alia* as under:

"The case of casual work supervising Mistries holding diploma in Civil Engineering in the Metro Railway, Calcutta, and Vishakapatnam project of S.E. Railway who were regularised in the grade of Rs. 1400—2300 is different from that of casual highly skilled technical mates of Central and South Central Railways. The former were already working in grade Rs. 1400—2300 at the time when the proposal for their regularisation came up and, in fact, worked for some years in that grade (in the case of S.E. Railway the casual temporary work supervising Mistries were also recruited in the grade Rs. 1400—2300).

Though in the case of the Metro Railway, the CAT/Calcutta did not agree to the prayer of some of the Casual Works Supervising Mistries who approached the CAT for their regularisation in grade Rs. 1400—2300, the Ministry of Railways after duly considering their case agreed that their services may be regularised as a special case, as IOW Gr. III in scale Rs. 1400—2300 (RPS) against 75% Direct Recruitment Quota in view of the fact that these employees had already worked in that grade for a long period.

In the case of Central Railway the Casual Highly Skilled Technical Mates holding diploma in Civil Engineering in the grade Rs. 1200—2040 and 1320—2040 had also sought for regularisation as IOW Gr. III and had also taken the matter to the Supreme Court and the Hon'ble Supreme Court had only directed to allow them a chance to appear before the RRB for a job commensurate with their qualifications without the bar of upper age limit. However, the Ministry of Railways provided for their absorption as Skilled grade with an element of Artisans in grade Rs. 950—1500 which is the only direct recruitment in the stream of artisans, purely on humanitarian ground as many of them either did not appear or appeared and failed in the RRB examinations.

In this case also, there is no contradiction of the judgement of the Supreme Court as their case for regularisation in grade Rs. 950—1500 was considered on humanitarian grounds only after complying with the Supreme Court directive to allow them to appear in the RRB examinations relaxing the upper age restrictions.

On the basis of the decision taken to regularise HSTMS/WSMs on Central and S.C. Railways in grade Rs. 950—1500 against the 25% Direct Recruitment quota in the Civil Engineering Department in the category of Skilled Artisans, cases of similar nature which arose subsequently on S. Railway, RE/Durg-Nagpur and Northern Railway were also decided in similar manner.

It may be appreciated that the decision to regularise the Casual HSTMS/WSMs holding diploma in Civil Engineering in group C against 25% Direct Recruitment quota in Engineering Department in scale Rs. 950—1500 in itself is a special dispensation allowed to these casual workers which is also in line with the judgement of the Hon'ble Supreme Court, and that the request of the representationists for regularisation in the scale of Rs. 1400—2300 cannot be agreed to."

1.6 The Committee at their sitting held on 25 October, 1994 considered the comments furnished by the Ministry of Railways (Railway Board) and decided to hear oral evidence of the representatives of the Ministry in the matter.

1.7 Accordingly, on 15 November, 1994 the Committee heard oral evidence of the representatives of the Ministry of Railways.

1.8 During evidence, the Committee asked to explain the reasons for promotion and regularisation of the Khalasis appointed in Metro Railway, Calcutta, in the higher grade of Rs. 1400—2300 as a special case and the difference between the Metro Staff and S.C. Railway Staff. The representative of the Ministry stated as under:

"Regularisation and promotion cannot be concurrent. First of all, a person has to be regularised and then only he can be promoted. Sir, a construction organisation requires staff in various Groups like Group D personnel, artisans and then supervisors. There are two methods of staffing for this, namely people who opt from the posts on the Railways or direct recruits at higher grades, and secondly people who have already been working within the construction could be promoted. Metro Railway, Calcutta, was a temporary organisation. Even today it has no cadre of its own. It is a work charged organisation. There was nothing like regularisation in Metro Railway. In the Zonal Railway where permanent posts exist it can be done. In case of Metro Railway these people had already advanced up to grade of Rs. 1400—2300 in casual capacity.

When the matter of regularisation came, since they were already working in the grade of Rs. 1400—2300 for a long time, a humanitarian view was taken, and though the CAT had not given any orders for it, they were regularised against the posts of South Eastern Railway. Because S.E. Railway had recruited casual labour in the grade of Rs. 1400—2300 directly they also were regularised in Rs. 1400—2300. Here this is materially different from what is obtaining in South Central Railway. In South Central Railway people have advanced only upto the grade of Rs. 950—1500 or related intermediate grades. The best that we could do in their case was to regularise them in that grade. Once they are regularised they can further be promoted as regular employees. Another thing involved is they should be regularised initially when there is an element of direct recruitment. The moment some personnel are regularised in the intermediate grade it will affect the promotional prospects of regular employees in that grade. That is in a nutshell our establishment policy.

We do not normally discharge casual labour from their jobs though Rules provide. Even the Supreme Court have only also said in their judgement that they should not be removed unless they are given a chance. They have not restrained us from removing them and we are very much in our right to remove them after giving them a chance, but the Railways do not want to do that. As a matter of policy we do not retrench people. We want to regularise them. In this case we have taken a humanitarian view, despite the judgements of CAT, Calcutta, and Supreme Court having gone against the applicants we have permitted them to stay.”

1.9 When asked to explain whether such an opportunity as directed by the Supreme Court, was given to the S.C. Railway Staff, the witness stated that the import of the order of the Supreme Court was that we should not discharge the diploma holder casual labour without giving them a chance to appear for RRB examination. The Court order was not in fact taken to its logical conclusion as none of them was discharged by the Railways.

1.10 On being asked to explain the procedure followed for recruitment in the case of Metro staff and the rule under which their promotions were made, the witness stated that for regular staff there is a system of advertising while posts in Group D category are not advertised. They are taken from Employment Exchanges. About 25 or 30 years ago Supervisors were empowered to appoint casual labour and they used to be regularised as per rules whenever their turn came. Later on these powers were withdrawn from the Supervisors and General Manager was empowered to appoint casual labour as needed on the Railways. He would, however, check up as to how the Metro Railway had made such appointments. Explaining about the promotions made in Metro Staff case, the witness

stated that there was no restriction in promoting a person from lower grade to higher grade in same casual category in case of need. Based on suitability, the Railways could promote a person in the same casual category. They did not have detailed rules in this regard but there is a provision that in case of necessity people from casual labour category could be promoted. This provision was uniformly applicable in all zones of the Railways. The witness stated that they would furnish a copy of the rule later on to the Committee.

1.11 Asked as to why the Metro Staff who were initially appointed in the grade of Rs. 750-940 were not regularised in that grade instead of the higher grade of Rs. 1400-2300, the witness explained that regularisation requires actual absorption and to regularise somebody there should be a permanent post in that category. Metro Railway did not have permanent post in that Group D category since Metro had neither regular cadre nor any regular post. They were not able to get regular staff to work in construction project like Metro Calcutta and, therefore, the staff had to be promoted to the grade of Rs. 1400-2300 treating them as casual only. So when they were able to get some regular posts in S.E. Railway in the grade of Rs. 1400-2300, they were taken and regularised in that Railway.

1.12 Asked to state the time gap between promotion and regularisation in the case of Metro Staff case, the witness stated that they would furnish the figures in writing. Explaining as to why so many persons were appointed in the grade of Rs. 750-940 when there was no regular post, the witness stated that in the construction organisation, they have what is called work charged establishment against which certain funds are allocated for manpower. The Railway calculate how much money would be required for that purpose because the construction by itself is a temporary activity.

Replying to a query why the S.E. Railway had recruited Supervising Ministries in the grade of Rs. 1400-2300 when there was no such post and that too without approval of the Railway Board, the witness stated that they would check up from the Railways and furnish the information.

1.13 When it was pointed out that as per Supreme Court directives in the case of casual technical mates of Central Railway, the petitioners should have been given the opportunity to appear before RRB for selection, the witness stated that the Supreme Court had stated that as and when the Railway think of discharging the staff, they should be given this opportunity. Since they were not discharged, they are free to appear before RRB upto the age of 40 years and in the case of SC/ST candidates upto 45 years of age.

1.14 Asked about the implementation of judgement of the CAT, Jabalpur, delivered on 27.7.94, in the case of Central Railway, directing the Railway to give opportunity to casual technical mates at Gwalior to appear before RRB for selection for the post of IOW or for extending the same treatment as was given to Metro Railway Staff, in South Eastern

Railway, the witness stated that they had not examined the judgement and the Railways were asked to give their comments in the matter.

When asked to state how many persons in the South Central Railway were seeking regularisation in the grade of Rs. 1400-2300, the witness stated that they were 29 in number.

The Chairman then directed that a detailed note on all the points raised in the questionnaire and also during evidence may be furnished for information of the Committee within a week. The representatives of the Ministry agreed to do the same.

1.15 The Ministry furnished the clarifications sought during evidence *vide* their replies dated 8.2.95 and 13.7.95 (See Appendix III and IV).

Observations and Recommendations of the Committee

1.16 The Committee note from the information furnished by the Ministry of Railways (Railway Board) that the case of Casual Works Supervising Mistries holding diploma in Civil Engineering in the Metro Railway, Calcutta, is different from the case of Casual Highly Skilled Technical Mates of South Central Railway. The Metro Railway is a temporary organisation having no cadre of its own even today. With the commencement of Metro Railway construction in the 70s, there had been a bulk requirement of works mistries for Civil Engineering Department which, however, could not be met by induction from the Zonal Railways despite best of their efforts. Therefore, in the above special circumstances the method of recruiting Work Mistries on casual basis apart from promoting those Class IV staff, after necessary screening, who had gained experience in the field, was adopted. The casual staff promoted as Works Mistry were not regularised as Khallas in grade Rs. 750-940 (RPS) before giving them promotion as Works Mistries as there was no regular post of Group D in that scale in Metro Railway at that time. This was then purely a construction project. The Central Administrative Tribunal (CAT), Calcutta, did not agree to the prayer of some of these Casual Works Supervising Mistries for their regularisation in grade Rs. 1400-2300. The CAT had ruled in their case that Railway Administration should not force the applicants to be regularised in Class IV unless they volunteer for the same. But the Ministry of Railways after duly considering their case agreed that their services be regularised against the posts of S.E. Railway on humanitarian ground, *as a special case*, as IOW Gr. III in scale of Rs. 1400-2300 against 75% direct recruitment quota in view of the fact that these employees had already advanced to and worked in that grade for a long period when the proposal for their regularisation came up. A total of 29 casual W&M Grade were got covered by the special dispensation.

1.17 The Ministry informed the Committee that the case of S.C. Railway was decided in accordance with extant rules and also directions given by the Supreme Court in its judgement dated 3.5.89 in a similar case from the Central Railway. The South Central Railway Staff had advanced to the

grade of Rs. 950-1500 or related intermediate grades only. As per rules, they are required to be regularised in that grade only as they attained temporary status in that grade. They have not advanced to the grade of Rs. 1400-2300 so far.

1.18 The Committee note that the Supreme Court directed the Central Railways to give an opportunity to the Staff of Central Railways to appear before Railway Recruitment Board for their selection to the posts suitable to their qualifications and experience without age bar before they were retrenched. The CAT, Jabalpur Bench, in the same case, subsequently felt that the petitioners were not given an effective opportunity as ordered by the apex court and directed in their orders dated 27.7.94 and 5.1.95 the Railway Administration to comply with the order of the apex court.

1.19 The Committee further note from the reply of the Ministry of Railways dated 13.7.95 that they have advised the RRB, Bombay, to give the said relaxation in age for giving effective opportunity to the petitioners in Central Railways.

1.20 The Committee note from the Ministry's reply dated 8.2.95 that a decision was taken to give a similar opportunity to the S.C. Railway Staff.

1.21 After considering the facts of the case, the Committee are of the opinion that inspite of special circumstances prevailing in the case of Metro Railways, there appears to be an element of irregularity in the special consideration in regularising the Metro staff in the grade of Rs. 1400-2300 (IOW) in view of the fact that there was no such permanent post in the Metro Railway and also the CAT, Calcutta, had not earlier agreed to their prayer for the same. The Committee feel that discretionary powers were exercised in an arbitrary manner while treating the Metro Staff case *as a special case*.

1.22 The Committee, however, agree with the Ministry of Railways (Railway Board) that after finalising the Central Railway case in line with the Supreme Court decision, all the subsequent cases of similar type have to be dealt with on the lines of Central Railway case. The precedent of Metro Staff case cannot be generalised and applied to S.C. Railway staff or staff in other zones as it may cause a dilution of the grade of Inspector of Works and emergence of similar demands from other categories of staff leading to serious administrative and financial problems for the Railways.

1.23 The Committee, however, recommend that the Railway Administration should undertake a thorough review of the rules regarding recruitment and conditions of service of their staff and make amendments/improvements wherever necessary with a view to eliminate as far as possible the scope for arbitrary exercise of discretionary powers in service matters which often lead to misgivings among the staff leading to litigation in many cases.

1.24 The Committee also recommend that the Railway Administration may give effective opportunity upto the age of 45 years to all similarly placed staff in all the zones to appear before RRB for their selection to the posts suitable to their qualifications.

II

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR NINTH REPORT (EIGHTH LOK SABHA) AND FOURTH REPORT (TENTH LOK SABHA) ON THE REPRESENTATION REGARDING RECOGNITION OF MAITHILI UNIVERSITY

The Committee on Petitions in their Ninth Report (Eighth Lok Sabha) presented to Lok Sabha on 3 May, 1989, had considered certain representations regarding recognition of Maithili University. The Committee considered the Action Taken Notes received from the Ministry of Human Resource Development (Department of Education) and presented their Action Taken Report (Fourth Report, Tenth Lok Sabha) to the House on 18 March, 1993.

2.2 A copy of the Fourth Report (Tenth Lok Sabha) was forwarded to the Ministry of Human Resource Development for furnishing a note on action taken on the recommendations made by the Committee therein.

2.3 The action taken statement has been received from the Ministry of Human Resource Development (Department of Education) and is shown at Appendix—V

Recommendation (Para 1.5)

2.4 In the Fourth Report, the Committee had desired that the possibility of finding a more practical solution to the problem (of having been awarded degrees by fake Universities) should be explored so as to find a way out to save the career of persons who had been awarded degrees by the so called Maithili University.

The Ministry have stated in their reply that the so called degrees awarded illegally cannot be legalised and any regularisation of the fake degrees/diplomas of Maithili University would set a wrong precedent.

Recommendation (Para 1.7)

2.5 The Committee had desired to be apprised of the action taken by the State Government of Bihar and I.G. Police, Bihar (to initiate legal proceedings for having set up fake University). The Committee had also desired that wide publicity both in press and electronic media should be given to counter any advertisement given by any fake institution so that people were not cheated.

The Ministry in this regard have stated that UGC *vide* its registered letter dated 4.9.85 advised the self styled Maithili University to dissociate

the word 'University' with its name and stop awarding degrees forthwith, copies of the letter endorsed to the Secretary, Education Department, Government of Bihar, and I.G., Police/Commissioner of Police, Bihar, for information and further necessary action. As the fake University filed a writ petition at the Patna High Court and the matter being sub-judice no penal action could be taken against the institution. The Ministry also requested the Chief Secretary, Bihar, to take necessary legal action against the fake University under the provisions of the UGC Act and the Indian Penal Code under section 420.

2.6 As regards issuance of Press Notices, the Ministry have stated that the Commission has been issuing press notices every year in leading National dailies/ regional newspapers through the DAVP, New Delhi, cautioning the unsuspecting students not to pursue higher educational courses through self styled fake Universities. Simultaneously, the Commission has been writing to the Vice Chancellors of Universities to caution the students against the existence of self-styled Universities. Press Notes were released by UGC on 21 December, 1988, 28 March, 1990, 15 July, 1992, 16 September, 1993 and 5 July, 1994. As soon as the press note is released through the DAVP, generally the list of fake Universities alongwith the summary of the press note is telecast/broadcast over the electronic media, like the television and radio.

Observations of the Committee

2.7 The Committee are satisfied to note the steps taken by the Department of Education to stop the growth of fake Universities and trust that they would continue to keep a vigil over functioning of various Universities in the country with the help of the State Governments concerned. The Committee also hope that the Department of Education would take deterrent action against those fake Universities who contravene the provisions of UGC Act so that such Universities are not allowed to function and spoil the career of thousands of students of the country.

NEW DELHI;
4 December, 1995

P.G. NARAYANAN,
Chairman,
Committee on Petitions.

13 Agrahayana, 1917 (Saka)

APPENDIX-I

(See Para 1.3 of the Report)

▶ COMMENTS FURNISHED BY MINISTRY OF RAILWAYS (RAILWAY BOARD) VIDE THEIR O.M. NO. E(NG)IL/93/RC-3/16 DATED 27.9.1993, ON THE POINTS RAISED IN THE REPRESENTATION

2.1 In the case of Metro Railway Calcutta all the casual works Supervising Mistries holding Diploma in Civil Engineering referred to by the representationists were working in grade Rs. 1400-2300 (RPS) when the proposal for regularisation of their services came up. The Ministry of Railways (Railway Board), after duly considering the proposals, have agreed that their services may be regularised, as a special case, as IOW Gr. III in scale Rs. 1400-2300 (RPS) against 75% Direct Recruitment quota by restricting the field to these Casual Works Supervising Mistries.

2.2 In the case of Central Railway, all the Casual Highly Skilled Technical Mates holding diploma in Civil Engg. In the grade Rs. 1200-2040 and Rs. 1320-2040 had also sought regularisation as IOW Gr. III and had also taken the matter to Supreme Court. The Hon'ble Court gave orders that the petitioners should not be terminated till such time an opportunity is given to them for appearing before RRB for selection to posts suitable to their qualification etc. as directed in the order. While affording them necessary opportunity to appear before RRB as directed by the Hon'ble Supreme Court, Railway Board also decided that the petitioners should be considered for absorption as Skilled Artisans in grade Rs. 950-1500 which is the only direct recruitment grade in the stream of Artisans, and thus decided not to take the option of terminating them.

2.3 In the case of Casual Technical Mates of South Central Railway the matter has been dealt with on the lines of Central Railway because:—

- (a) All the representationists were recruited in the scale of Rs. 950-1500 and had attained temporary status in the same grade;
- (b) After finalising the Central Railway case in line with the Supreme Court decision, all the subsequent cases of similar type are dealt with on the lines of Central Railway case.

2.4. The option of terminating the services of the Casual Technical Mates by first affording them the opportunity to appear for selection by RRB, was not resorted to. Once the employees become regular in the Artisan category, they will have ample opportunity to appear before RRB as in service candidates, as per their qualification.

The South Central Railway case has been dealt with on line of the Central Railway case because—

- (a) All the representationists were recruited in the scale of Rs. 950-1500/- and had attained temporary status in the same grade;
- (b) After finalising the Central Railway case in line with the Supreme Court decision, all the subsequent cases of similar type have to be dealt with on the line of Central Railway case.
- (c) In general also, it is only proper that Casual Labour are considered for regularisation in the grade in which they attain temporary status and not in any higher grades.

In view of the above, representationists case does not, perhaps, warrant reconsideration.

APPENDIX-II

(See Para 1.4 of the Report)

LIST OF POINTS FORWARDED BY SHRI KONATHALA RAMAKRISHNA, M.P. IN RESPONSE TO THE COMMENTS FURNISHED BY THE MINISTRY OF RAILWAYS *VIDE* THEIR O.M. DATED 27.9.1993

1. Whether it is a fact that as per rules Casual Khalasis require to be regularised as Khalasis before they get any promotion in any higher grade?

2. Whether it is a fact that as per extant procedure, regularisation is made only in the grade in which temporary status is granted?

If so, whether Metro Railway recruited some Diploma Holders initially as Casual Khalasis in grade Rs. 750-940 and before regularising their services as Khalasis in grade Rs. 750-940, promoted them in the higher grade Rs. 1400-2300 against the prescribed rules and regularised them in grade Rs. 1400-2300 irrespective of the fact that they were granted temporary status in grades Rs. 750-940?

A. The above promotion and regularisation in grade Rs. 1400-2300 were made in contradiction of the directives of the CAT/Calcutta.

If the staff of Metro Railway having been initially recruited as casual Khalasis in grade Rs. 750-940 and having been granted temporary status in grade Rs. 750-940 were regularised in higher grade Rs. 1400-2300 then why the identical staff of Central Railway and South Central Railway who were initially recruited in grade Rs. 950-1500 and who were granted temporary status in grade Rs. 950-1500 (i.e in higher grade than that of Metro Railway) were not regularised in grade Rs. 1400-2300 whilst they were already promoted to intermediate grades Rs. 1200-1800, Rs. 1200-2040 and Rs. 1320-2040 but they were regularised in grade Rs. 950-1500 irrespective of the fact that (i) they were all Diploma holders and (ii) they all were working physically against the posts in grade Rs. 1400-2300 ever since their initial recruitment?

B. The above regularisation in grade Rs. 950-1500 was made in contradiction of the directives of the hon'ble Supreme Court.

A. Metro Railway Administration screened some Casual Khalasis of Metro Railway for regularisation in grade Rs. 750-940. These Casual Khalasis filed a writ petition in CAT/Calcutta praying for their regularisation in grade Rs. 1400-2300. But CAT/Calcutta turned down their prayer for regularisation in grade Rs. 1400-2300 ruling however, that the Metro Railway Administration should not force them to be regularised in grade Rs. 750-940 unless they volunteer for the same. With this

judgement Metro Railway Administration should have retrenched them in case they were not prepared to be regularised in grade Rs. 750-940.

B. The Supreme Court's directive in a Writ Petition filed by some Casual Technical Mates of Central Railway were to give the petitioners and opportunity to appear before the RRB for selection to the posts in accordance with their suitability and qualification for such posts. The staff of Central Railway and South Central Railway were suitable for the posts in grade Rs. 1400-2300 for their being Diploma holders and for their having been working against the posts in grade Rs. 1400-2300 ever since their initial recruitment. Accordingly they should have been regularised in grade Rs. 1400-2300 instead of Rs. 950-1500.

APPENDIX-III
(See Para 1.15 of the Report)
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E (NG) IL/93/RC-3/16

New Delhi, dt. 8.2.95.

OFFICE MEMORANDUM

Sub : Representation from temporary technical staff of Railway Electrification Organisation, S.C. Railway, Secunderabad, for regularisation in grade Rs. 1400-2300 (RPS)

The undersigned is directed to refer to Lok Sabha Sectt's O.M. No. 53/CI/93/R-107, dt. 22/23.12.94 on the above subject.

The detailed comments/information on the points raised in the questionnaire referred to in the above O.M. and the points raised during the course of evidence before the Committee on petitions on 15.11.94 are furnished below :

A. POINTS RAISED DURING ORAL EVIDENCE

1. Point Raised :

A copy of the rules under which casual labour in the railways could be promoted to a higher grade in case of necessity; and later on could be regularised in the higher grade without first regularising them in the initial or lower grade.

Comments :

A copy of Para 2007(3) of Indian Railways Estt. Manual Vol. II, 1990 edition providing that wherever casual labour get promoted to semi-skilled, skilled and highly skilled categories due to non-availability of regular departmental candidates, they can be straightaway absorbed in regular vacancies in skilled grades, is enclosed.

2. Point Raised :

The time gap between appointment, promotion and regularisation in the case of the Metro Staff case.

Comments :

The relevant information has been called for from Metro Railway/ Calcutta and S.E. Railway and will be furnished as soon as the same is received.

3. Point Raised:

The reasons for the S.E. Railways recruiting Supervising Mistries in the grade of Rs. 1400-2300 when there was no such post and that too without approval of the Railway Board;

Comments :

S.E. Railway recruited the diploma holder casual Works Mistries in grade Rs. 1400-2300 (RPS) for the following main reasons;

(a) There was dearth of Inspectors of Works on the Railway to man the Construction work.

(b) No panel of Inspectors of Works drawn by RRB was then available and it might have taken a considerable time to get a panel of Inspectors of Work to man the construction work.

In the above circumstances, S.E. Railway decided to recruit some casual Works Supervising Mistries in grade Rs. 1400-2300 locally restricting the field of eligibility to only holders of diploma in CE with 70% marks and above and Engg. Graduate with 60% marks and above. These casual Works Gr. Rs. 1400-2300 (RPS). The facts of the case were considered by the Board while according permission for the absorption of the staff so recruited.

4. Point Raised:

The status/progress of implementation of the judgement of the CAT, Jabalpur, delivered on 27.7.1994 in the case of Central Railways, directing the Railways to give opportunity to casual technical Mates at Gwalior to appear before RRB for selection for the post of IOW or for extending the same treatment as was given to Metro Railway Staff.

Comments :

The Hon'ble CAT/Jabalpur *vide* their judgement dt. 27.7.94 have directed the Railway Administration to consider the regularisation of the petitioners who are diploma holders Casual highly skilled Technical Mates of the Railway in the post of IOW Gr. III by either giving them an effective opportunity to appear before the RRB for regular selection, or consider extending to the petitioners the same treatment as has been extended in the case of similarly placed persons by S.E. Railway. The details of the action taken by Central Railway against the judgement have been called from Central Railway and will be furnished as soon as the same are received.

B. POINTS RAISED IN THE QUESTIONNAIRE

1(a) Point Raised:

The reasons for promotion of the casual Khallasis in Metro Railway, Calcutta, to the grade of Rs. 1400-2300, without first regularising them as Khallasis or Work Superivising Mistries in the grade of Rs. 750-940;

Comments:

The relevant information has been called from Metro Railway/Calcutta, and will be furnished as soon as the same is received.

1 (b) Point Raised:

The reasons for treating their case as a special case and then regularising them in the grade of Rs. 1400-2300, in violation of the extant rules and the direction given by the CAT, Calcutta, in this case and how many such Khallasis were given special dispensation?

Comments:

The case of the Diploma holder/BE, Casual WSM Grade I was treated as a special case and considered for regularisation as IOW Gr. III Grade Rs. 1400-2300/- (RPS) as they had already been working in grade Rs. 1400-2300/- for some time when the proposal for their regularisation came up to Board for consideration. In doing so, no violation of the judgement of CAT/Calcutta was involved since the CAT had only ruled that the Railway Administration should not force the applicants to be regularised in class IV vacancies unless they volunteered for the same. A total of 29 casual WSM Grade-I got covered by the special dispensation. As for the casual Khallasis, none got covered by the special dispensation. Even the casual Khallasis who had been promoted as WSM grade-I could not get covered by the special dispensation as none of them was Diploma holder/BE.

2. Point Raised:

Whether a proper and justified procedure was followed in treating the Case of Metro Railway Staff as a special case? If so, please explain the details of the procedure followed and the level at which it was approved if not, explain the reasons therefor.

Comments:

A proper and justified procedure was followed in treating the Case of Metro Railway Staff as a special case and, the regularisation was approved at the level of the Railway Board on merits after thorough examination of the case.

3. Point Raised:

The Ministry of Railway have informed the Committee in their reply dated 12.5.94 that the case of Casual Work Supervising Mistries holding Diploma in Civil Engineering in the Metro Railway, Calcutta and Vishakapatnam Project of S.E. Railway who were regularised in the grade of Rs. 1400-2300 is different from that of casual highly skilled Technical Mates of Central and South Central Railways.

Please explain how the case of S.C. Railway staff is different from that of Metro Railway keeping in view the fact that in both cases the staff were

diploma holders in Civil Engineering and the initial appointment of S.C. Railway Staff was in a higher scale of Rs. 950-1500 as compared to the initial appointment of Metro Staff in lower scale of Rs. 750-940.

Comments:

The case of diploma holder Casual Technical Mates of South Central Railway is different from that of Casual Works Supervising Mistries of Metro Railway/Calcutta in view of the following reasons:—

(a) The Casual Technical Mates on S.C. Railway were engaged in scale Rs. 950-1500 whereas the Works Supervising Mistries Grade II on Metro Railway/Calcutta who got covered by the special dispensation were engaged in scale Rs. 1200-2040(RPS).

(b) When proposal for regularisation came up for consideration of Railway Board, the Casual Technical Mates of S.C. Railway were working in scale Rs. 950-1500 and Rs. 1320-2040 whereas the WSMs on Metro Railway/Calcutta were working in scale Rs.1400-2300 (RPS).

4. Point Raised:

Whether Jabalpur Branch of CAT has delivered a judgement on 27th July' 94 in the case of daily rated highly Skilled technical Mistries of Central Railway, Gwalior, claiming the pay scale of IOW Grade III and has directed the Central Railway to extend them the same treatment as has been meted out to similarly placed persons by the South Eastern Railway?

(a) What was the procedure followed in the cases of the Casual temporary work Supervising Mistries in South Eastern Railway recruited in the grade of Rs. 1400-2300?

(b) What decision has been taken by the Railways in pursuance of the judgement of Jabalpur Branch of the CAT?

Comments:

CAT/Jabalpur vide their judgement dt. 27.7.94 have directed the Railway Administration to consider the regularisation of the petitioners who are diploma holder casual highly skilled Technical Mates of the Railway in the post of IOW Gr. III either by giving them an effective opportunity to appear before the RRB for regular selection or by extending to the petitioners the same treatment as has been extended in the case of similarly placed persons on S.E. Railway. A copy of the judgement is enclosed for perusal.

In view of the fact that the casual Works Supervising Mistries on S.E. Railway were initially recruited in grade Rs. 1400-2300 and had already worked as such for quite some time when proposal for their regularisation came up for the consideration of the Railway Board, it was decided to treat their case as a special case and regularise them as IOW Gr. III grade Rs. 1400-2300 (RPS) against direct recruitment quota.

The Details of the action taken by Central Railway against the judgement dt. 27.7.94 of CAT/Jabalpur has been called from Central Railway and will be furnished as soon as the same is received. The Railway, however, has been regularly reminded to expedite the position.

5. Point Raised:

The petitioners have stated that they should have been given an opportunity, as per directions of the Supreme Court in the case of Central Railway, to appear before the RRB for selection to the post in accordance with their suitability and qualifications for such posts.

(a) Please state whether such an opportunity to appear before the RRB was given to S.C. Railway Staff and similarly placed staff in other zones?

(b) If so, please furnish the details thereof, if not, the reasons therefor?

Comments:

Board's approval to extent the benefit of affording an opportunity to appear in the RRB examinations held for open market recruitment, in accordance with their educational qualification without insisting on upper age limit in the case of diploma holder casual labour on S.C. Railway whose regularisation had been agreed to in grade Rs. 950-1500 as skilled artisans earlier, is being conveyed to S.C. Railway.

6. Point Raised:

The petitioners have prayed that S.C. Railway Staff be regularised as IOW Grade III in the scale of Rs. 1400-2300 against 75% Direct Recruitment Quota by restricting the field to the petitioners as was done in the case of Metro Railway Staff, Calcutta.

(a) Please state the difficulties, administrative or otherwise, that may arise in case S.C. Railway Staff and similarly placed staff in other zones were to be given the same treatment and opportunity as given to Metro Staff Case.

(b) What would be the approximate total number of such staff in different zones who would benefit in case they are treated on the lines of Metro Railway Staff?

Comments:

Since the cases of diploma holder casual labour on other Railways including S.C. Railway are not similar to those of casual works Supervising Mistries on Metro Railway/Calcutta and S.E. Railway in that while the former were working in lower grade Rs. 950-1500, Rs. 1200-1800, Rs. 1200-2040, Rs. 1320-2040 (RPS) etc. the latter have been working in the scale Rs. 1400-2300 at the time of considering their regularisation, the benefit of regularisation in scale Rs. 1400-2300 extended to the casual works Supervising Mistries of Metro Railway/

Calcutta and S.E. Railway has not been extended to the diploma holder Technical Mates etc. of other Railways including the representationists.

• The regularisation of casual labour in question in the scale Rs. 1400-2300 would amount to dilution of the cadre of IOWs. Further, regularisation of casual labour in a higher grade than the grade in which they have been working as casual labour, may lead to similar demands from casual labour engaged in Group 'C' in other departments for regularisation in higher grades leading to serious administrative and financial problems for the Railways.

The total number of diploma holder casual labours who would benefit in case they are treated on the lines of diploma holder casual labour of Metro Railway, Calcutta on the basis of cases already dealt with, would be 354 as under:

Central	101
South Central	29
Southern	146
RE/Durg Nagpur	25
Northern	41
RCF	12
	354

DA: 1. A copy of para 2007(3) of Indian Railway Estt. Manual Vol. II 1990 edition.

2. A copy of the judgement dt. 27.7.94 of CAT/Jabalpur.

(M.D. Pillai)
Dy. Director Estt. (N) I
Railway Board.

Shri Ram Avtar Ram,
Dy. Secretary,
Lok Sabha Sectt.,
Parliament House Annexe,
NEW DELHI.

2007. Employment of Casual labour in skilled categories.—(1) Normally Casual labour should not be appointed in skilled categories without a trade test. A panel should be maintained by the open line to cater to the needs of the casual labour in semi-skilled and skilled categories. Where no panel of suitable candidates is available, engagement in semi-skilled or skilled categories may be done without trade test but it should be ensured that their suitability for semi-skilled or skilled grade is adjudged well in time before they attain temporary status.

[Board's No. E(NG)II/CL/83 dt. 11.5.73]

(2) When casual labour are engaged in skilled Categories, the relevant scale for the purpose of determining their wages (as per orders regulating wages of Casual labour) will be that applicable to skilled artisans. On attaining temporary status they shall be paid in that scale. Similarly for Project Casual Labour in skilled categories with 180 days continuous service, consolidated wages shall be at the minimum of the scale of pay applicable to artisans plus D.A. Payment on this basis will be admissible however, from the date of passing prescribed trade test if the same is later than the date of attaining temporary status or date of completion of 180 days, as the case may be, from whichever date is later. No casual labour in skilled category can be engaged without the approval of an authority lower than a Divisional Engineer.

[Board's No. E(NG)II/84/CL/58 of 20.12.85]

Note.—Past cases decided other wise than in term of the letters dated 20.12.85 cited above or in terms of final orders of a court of competent jurisdiction, shall not be re-opened. Where, however, a person was continuing as a casual labour in a skilled category on 20.12.85 (date of issue of the said letter) his case will be regulated prospectively in terms of the provisions of the said letter (dated 20.12.85).

(3) Casual labour engaged in work charged^d establishment of certain Departments who get promoted to semi-skilled, skilled and highly skilled categories due to non availability of regular departmental 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, to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. These orders also apply to the casual labour who are recruited directly in the skilled categories in work charged establishments after qualifying in the trade test.

(4) (a) Casual labour should be subjected to medical examination as early as possible and preferably before grant of temporary status, Continued retention in employment is subject to qualifying in the prescribed medical examination. When casual labour who have put in six years service whether continuous or in broken periods, are included in a

panel for appointment to group D posts and are sent for medical examination for first appointment to regular service, the standard of medical examination should not be the one that is required for first appointment but should be the appropriate standard as prescribed for re-examination during service.

(b) Such of the Casual labour as are found, on medical examination, unfit for the particular category for which they are sent for medical examination despite the relaxed standard prescribed for re-examination, may be considered for alternative category requiring a lower medical classification subject to their suitability for the alternative category being adjudged by the screening Committee, to the extent it is found possible to arrange absorption against alternative posts requiring lower medical classification.

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR
O.A. No. 161 of 1994**

Gyanendra Singh Kushwaha & 9 ors. —Applicants

Versus

Union of India through the General Manager,
Central Railway, Bombay VT & others —Respondents

Counsel:

Shri R.D. Jain —For the applicants

Shri B.L. Gupta —For the respondents

Coram:

Hon'ble Shri D.K. Agrawal—Vice Chairman

Hon'ble Shri R. Hariharan—Member(A)

JUDGMENT

(Delivered on this the 27th day of July, 1994)

This application has been filed by 10 applicants working as Highly Skilled Technical Mistries under the Dy. Chief Engineer (Construction), Central Railway, Gwalior. They have claimed pay scale admissible to the Inspector of Works Grade-III.

2. The brief facts of the case are that the applicants were appointed as daily rated Highly Skilled Technical Mistry in the year 1987 and thereafter. The applicants along with some others filed a Writ Petition No. 965 of 1988 (Manoj Kumar Shrivastava & 17 others Vs. Union of India & 21 others) before the Hon'ble Supreme Court, which was decided on 3.5.1989. The following order was passed by the *apex Court*—

“Learned counsel appearing on behalf of the respondents agree that the petitioners will be given an opportunity to appear before the Railway Recruitment Board for their selection to posts in accordance with their suitability and qualification for such post. In such selection there will be no question of age bar. So long as such an opportunity is not given, the respondents are restrained to terminate the services of the petitioners. The Writ Petitions are disposed of as above. There will be no order as to costs.”

3. In view of the aforesaid order of the apex Court, the applicants were individually advised by the respondent—Railways vide letter dated 25.4.1991 to apply for the post of Inspector of Works Grade-III in the revised pay scale of Rs. 1400-2300 in response to Railway Recruitment Board, Bombay Employment Notice No. 1/91.

4. The respondents have alleged that the applicants were not applying to the Railway Recruitment Board through proper channel for fear that their right to continue in service would be adversely affected, if they do not qualify in the selection. They have also pointed out that one of the Highly Skilled Technical Mistries (who is not an applicant in this case) applied directly to the Railway Recruitment Board has since been selected for the post of Inspector of Works Grade-III and is working as such.

5. The applicants have, however, alleged that the advertisement of the Railway Recruitment Board referred to by the respondents prescribed the age limit and there was no provision for relaxing it as per the directions of the apex Court. In these circumstances, the applicants have not secured regular appointment in the post of Inspector of Works Grade-III. The question of giving them the scale of that post has not, therefore, arisen. The applicants have also alleged discrimination pointing out that in the case of South-Eastern Railway and Metro Railway, similarly placed persons have been regularised and absorbed as Inspector of Works, Grade-III through a selection board in terms of South Eastern Railway order dated 17.9.1992.

6. In the conspectus of the facts and circumstances discussed above, it is evident that the prayer of the applicants for grant of the pay scale of Inspector of Works Grade-III cannot be entertained at this stage, as it is dependent upon their regular appointment in that post. However, we are of the view that the respondents have not given an effective opportunity to the applicants in terms of the apex Court order in as much as age relaxation has not been specifically accorded in terms of that order.

7. Accordingly, we direct the respondents to consider the regularisation of the applicants in the post of Inspector of Works Grade-III by giving them an effective opportunity to appear before the Railway Recruitment Board for regular selection. As an alternative, we direct them to consider extending to the applicants the same treatment as has been meted out to similarly placed persons by the South Eastern Railway. These directions shall be complied with within a period of three months of the communications of this judgement.

8. With the above observations, this petition is disposed of without any order as to costs.

SD/-

(R.Hariharan)
Member (A)

SD/-

(D.K. Agrawal)
Vice Chairman

APPENDIX-IV

(See Para 1.15 of the Report)

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

NO. E (NG)II/93/RC-3/16

New Delhi, dated 13-7-95.

OFFICE MEMORANDUM

Sub:—Representation from temporary technical staff of Railway Electrification Organisation S.C. Railway, Secunderabad, for regularisation in grade Rs. 1400-2300 (RPS).

The undersigned is directed to refer to Lok Sabha Sectt.'s O.M. No.53/CI/93/R-107 dated 22/23.12.94 and this Ministry's OM of even number dated 8.2.95 in reply thereto, on the above subject.

1.1 In continuation of this Ministry's OM of even number dated 8.2.95 referred to above, the information on the remaining points raised in the questionnaire and the points raised during the course of evidence before the Committee on petition on 15.11.94 are furnished below:

A. POINTS RAISED DURING ORAL EVIDENCE

1. Point No. 2 on page 1 of this Ministry's OM of even number dated 8.2.95—point raised:

The time gap between appointment, promotion and regularisation in the case of the Metro Staff case.

Comments:

A statement showing the dates of engagement, promotion and regularisation of 23 Diploma holder casual Works Mistries of Metro Railway/Calcutta is enclosed.

2. Point No. 4 on page 2 & 3 of this Ministry's O.M. of even number dated 8.2.95—point raised:

The status/progress of implementation of the judgement of the CAT, Jabalpur, delivered on 27.7.94 in the case of Central Railway, directing the Railway to give opportunity to casual technical mates at Gwalior to appear before RRB for selection for the post of IOW or for extending the same treatment as was given to Metro Railway Staff.

Comments:

In compliance with the CAT's directions dated 27.7.94, RRB/Bombay Central have been furnished with a list of all the 50 casual labour Diploma

holder HSTMs of Construction Organisation of Central Railway including the petitioners in the judgement advising that age relaxation be given to the casual HSTMs in the list if they apply for the post of Apprentice IOW Gr.III Rs.1400-2300 (RPS) in terms of the RRB's employment Notice No. 1/95 of 27.5.95 for the requirement on Western Railway. In this connection a copy of Central Railway's letter dated 6.6.95 to the Chairman, RRB/Bombay Central is enclosed.

A Copy of the judgement dated 5.1.95 of the CAT/Jabalpur in MA No. 1231/94-UOI Vs. G.S. Kùhwa and Ors. is enclosed vide which the CAT have appreciated the difficulties on the point of the Railway in implementing the CAT's original orders of 27.7.94 and brought to the notice of the respondents therein (i.e. petitioners in O.A. No.161/94) not to miss the opportunity to appear before the RRB and seek relaxation of age as per the orders of the Supreme Court in their judgement dated 3.5.89 otherwise their interest will suffer.

B. POINTS RAISED IN THE QUESTIONNAIRE

1. Point. 1 (a) at page 3 of this Ministry's OM of even number dated 8.2.95—Point raised:

The reasons for promotion of the casual Khalasis in Metro Railway, Calcutta, to the grade of Rs.1400-2300 without first regularising them as Khalasis or Work Supervising Mistries in the grade of Rs. 750-940.

Comments:

With the commencement of Metro Railway/Calcutta construction during the 70s there had been a bulk requirement of Works Mistries for Civil Engineering Department. The requirement of this category of staff had gone up considerably with the accelerated construction activities which could not be meted by induction from the Zonal Railways despite best efforts of the Metro Railway/Calcutta. This had necessitated adoption of the course of recruitment of Works Mistries on Casual basis apart from promoting a number of Class-IV staff (Casual) who had gained experience in the field of thier work over a number of years who were promoted after necessary screening. The casual staff promoted as works mistries were not regularised as khalasis Gr. Rs.750-940 (RPS) before giving them promotion as Works Mistries as there was no regular post of Group 'D' in scale Rs.750-940 (RPS) in Metro Railway/Calcutta at that time. This was then purely a Construction Project.

2. This also disposes of Lok Sabha Sectt. O.M. No. 53/CI/93/R-107 dated 22/23.12.94 and Shri G.C. Malhotra, Joint Secretary/Lok Sabha Sectt.'s D.O. No.53/CI/93/R-107 dated 23.6.95.

DA/As above.

(M.D. Pillai)

Dy. Director Estt. (N)I

Railway Board.

The Lok Sabha Sectt. (Attn. Sh. J.P. Jain, Under Secretary).

433, Parliament House Annexe,
New Delhi.

Copy to:—Parliament Branch, Railway Board.

Particulars of 23 Casual Works Mistries

Sl. No.	Name/Shri	Designation in which initially engaged as C/Labour	Scale	Date of engagement	Promotion given in M. Rly. Capacity and grade	Date of Promotion in M. Rly.	Date of leave as IOW/Gr. III from M. Rly. to S. E. Rly.	Total casual labour prior to deputation as IOW/Gr. III	Service rendered as casual labour prior to their deputation as IOW/Gr. III	Remarks
1	2	3	4	5	6	7	8	9	10	
Years Months Days										
1.	Rajat Ban dopedhyay	C/Works Mistry Gr. II	Rs. 330-480/- (Rs.) Rs. 1200-1800/- (RSRP).	8-3-78	Works Mistry Gr. I Rs. 425-640/ (RSY) Rs. 1400-2300/- (RSRP).	9-1-85	17.2.93	14	11	5
2.	Amalesh Mazumdar	-do-	-do-	10-3-78	-do-	9-1-85	22-3-93	15	x	13
3.	Sarajit Chakraborty	-do-	-do-	11-3-80	-do-	9-1-85	10-3-93	13	x	x
4.	Raujan Kr. Saha	-do-	-do-	21-2-81	-do-	9-1-85	16-3-93	12	x	24
5.	S. K. Ban-dopedhyay	-do-	-do-	9-4-81	-do-	9-1-85	21-4-93	12	x	13

1	2	3	4	5	6	7	8	9	10		
6.	P. K. Mukherjee	-do-	-do-	30-7-81	-do-	9-1-85	15-3-93	11	7	17	Sale of Rs. 1400— 2300 (RSRP) given to W/Mistry Gr. II has been corrected by giving the scale Rs. 1200-1800 (RP) vide Rly. Bd.'s letter No. PC-IV/ 93/Imp/3 dated 24-11-93.
7.	A. K. Guha	-do-	-do-	15-8-81	-do-	9-2-85	23-3-93	11	7	9	
8.	A. K. Mahadani	-do-	-do-	29-4-82	-do-	1-1-86	23-3-93	10	10	25	
9.	Tapan Mandal	-do-	-do-	19-8-82	-do-	30-1-85	17-2-93	10	6	x	
10.	S. Chowdhury	-do-	-do-	31-3-83	-do-		10-3-93	9	11	11	
11.	P. K. Biswas	-do-	-do-	22-4-83	-do-		23-2-93	9	10	2	
12.	K. B. Bhagbat	-do-	-do-	16-5-83	-do-		16-2-93	9	9	x	
13.	Aloke Ghosh	-do-	-do-	17-8-83	-do-		10-3-93	9	6	25	
14.	P. P. Das	-do-	-do-	5-3-84	-do-		23-2-93	8	11	19	
15.	Sudip Sarkar	-do-	-do-	22-10-84	-do-		23-2-93	8	4	2	
16.	A. Chakraborty	-do-	-do-	19-6-85	-do-		15-2-93	7	7	17	
17.	T. B. Choudhury	-do-	-do-	8-10-85	-do-		17-2-93	7	4	10	
18.	A. K. Saha	-do-	-do-	27-3-86	-do-		2-3-93	6	9	7	
19.	T. K. Gosh	-do-	-do-	2-4-86	-do-		2-3-94	6	11	x	
20.	S. Goewami	-do-	-do-	14-5-86	-do-		17-2-93	6	9	4	
21.	S. K. Dutta	-do-	-do-	6-12-88	-do-		23-3-93	4	3	18	
22.	A. K. Soal	-do-	-do-	12-12-88	-do-		23-3-93	4	3	12	
23.	J. K. Maji	-do-	-do-	16-1-89	-do-		23-3-93	4	2	8	

6/06/1995

HPB/226/RE/CL

The Chairman,
Railway Recruitment Board,
Bombay Central,
Bombay.

Sub:— Age-Relaxation to be given to HSTMs working under Engineering Construction Organisation, C. Rly. on account of Supreme Court's Judgement dated. 3.5.89 and CAT JBP's Judgements dated 27.7.94 on D.A. No. 161/94 and Judgement dated 5.1.95 on M.A. No. 1231/94 of CAT JBP.

Enclosed herewith please find a list of 50 HSTMs working in different units in the Engineering Construction Organisation of this Railway to whom age relaxation is to be given in case they apply to R.R.B. for any post in accordance with their suitability and qualification for such post, as per the above judgement.

A copy of the Supreme Court's Judgement dated 3.5.89 alongwith CAT JBP's Judgement dated 27.7.94 and 5.1.95 is enclosed herewith for you information.

In order to comply with the Court's Judgement, the HSTMs are being notified to apply for the post of App. IOW Gr. III Gr. Rs. 1400—2300 (RPS) in terms of your Employment Notice 1/95 of 27.7.95, for the requirement of W. Rly.

You are requested to kindly see that age-relaxation is given to the HSTMs shown in the enclosed list if they apply for the post of App. W Gr. III and kindly ensure that their applications are not rejected on this account.

(K. CHANDRA SEKHARAN)
/ Chief Personnel Officer (Engg.)

DA: As above.

Copy to: CAD(C) BR: For info. & nece. action, CPO's DO Lr.
No. HPB/226/RE/Court dt. 6.6.95 connects.

M.A. 1231/94

Union of India
Through General Manager,
Central Railway. Bombay V.T. & 2 Ors....APPLICANT

VERSUS

Gyanendra Singh Kushwaha
S/O A.S. Kushwaha
Occupation—Service
R/O D-6 Gandhi Nagar,
Gwalior & 9 Ors.

...RESPONDENTS

5.1.1995

Coram:

Hon'ble Shri D. K. Agrawal - Vice Chairman

Hon'ble Shri R. Hariharan - Member (A)

Shri S. P. Sinha, Counsel for the applicants.

Shri P. Shankaran, counsel for opposite party.

2. The facts are that we had delivered a Judgement in O.M. 161 of 1994 (Gyanendra Singh Kushwaha & nine other Vs. Union of India & ors.) on 27.7.1994 giving certain directions to the respondents (applicants in the instant application). An affidavit has been filed on behalf of the Railway administration by one Shri A. K. Mishra, Deputy Chief Engineer (Construction), Central Railway, Gwalior explaining the difficulties in the implementation of the order. We are *prima facie* convinced with the contents of the affidavit. No material has been placed on behalf of the opposite party to rebut those facts as stated in the affidavit. Therefore, we hereby grant time to the Railway administration as prayed. At the same time we would like to bring it to the notice of the opposite party (applicants in the original application) not to miss the opportunity to appear before the Railway Recruitment Board and seek relaxation of age as ordered by the apex Court, otherwise their interest may suffer.

3. The application is accordingly disposed of.

Sd /-
(R. Hariharan)
Member (A)

Sd /
(D. K. Agrawal)
Vice Chairman

APPENDIX-V

(see Para 2.4 of the Report)

ACTION TAKEN REPLIES FURNISHED BY THE M/O HUMAN RESOURCE DEVELOPMENT

Observations/recommendations of the Committee of **Reply of the Ministry of Human Resource Development (Department of Education)**

- (1) The Committee desires that the Government should explore the possibility of finding more practical solution to the problem so as to find a way out to save the career of persons who have been awarded degrees by the so called Maithili University.
- (1) "Maithili University, Darbhanga" is a fake institution and is not empowered to award any "degree". Thus the so called degrees awarded illegally cannot be legalized. Any regularisation of the fake degrees/diplomas of Maithili University would set a wrong precedent.
- (2) The Committee would like UGC to ensure that in future no institution in the country which has not been established either under the Central/State Act or notified on the recommendations of UGC as an institution deemed to be a University, awards or claims to award a degree or diploma. Wide publicity both in press and on electronic media should be given to counter such an advertisement so that people are not cheated.
- (2) The UGC has been issuing Press Notices in all the leading newspapers from time to time about the self styled "Institution/University/Vishwavidyalaya" functioning in violation of the UGC Act so that the people may not fall prey to the illegal "degrees" awarded by such Institutions. The UGC has also advised the Vice Chancellors/Registrars of all Universities, the State Education Secretaries and Directors of Higher Education of all State Governments/UTs to caution the students not to take admission in fake and self styled "Universities".
- (3) The Committee hope that more vigilance and strict application of penal laws would invariably be applied to stop the growth of fake Universities and Institutions.
- (3) There are provisions to impose penalty on such bogus institutions for using word 'University' without the approval of the appropriate authority but the quantum of penalty is nominal, i.e., Rs. 1000 /- only. However, in order to curb this illegal activity, the Government of

India introduced a Bill in the Parliament in 1991 in the Rajya Sabha. It has *inter alia* recommended that under section 24 of the principal Act, provision be made for imprisonment for a term which may be a minimum of six months and also a fine of amount not less than Rs. 1 lakh but which may extend to Rs. 10 lakhs. If the proposed amendment to section 24 of the UGC Act providing for a more deterrent punishment is enacted, the menace of the fake institutions is expected to be curbed to a great extent.

(4) The Committee would like to reiterate that all those persons who obtained Bachelor's degrees from Maithili University from its inception till it was declared illegal in 1986 should be allowed to appear for a Bachelor's Degrees from a University of their choice without charging any fees from them and without insisting on their undergoing any course of any duration. Similarly, those who obtained B.Ed. degree from the so called Maithili University should be allowed to appear for B.Ed. from an institution recognised by Government if he/she has passed BA from a recognised University.

(5) The Committee would also like to suggest that those persons who had obtained employment on basis of degree awarded by Maithili University and now face the threat of demotion/removal, be allowed to appear for a Bachelor's Degree thrice from a University of their choice and till then they should neither be demoted nor removed from service.

(4) In term of the provisions of UGC Act, an Institution not established as a University or incorporated under Act of Parliament/State Legislature is *ab initio* illegal from the day of its inception and is not empowered to award any degree. The time when a "Fake" institution is formally declared illegal is not relevant. The eligibility condition for appearing at a degree/B.Ed. examination of a recognised University, payment of examination fees etc. are matters which are decided by the concerned Universities in accordance with their Act, Statutes and ordinances.

(5), (6) & (7) Every University has framed its rules with regard to permission to candidates for appearing in a particular course conducted by it. If an illegal degree of a fake University is conferred any legitimacy, similar demands will be made by other fake Universities. [Ministry of Human Resources Development O.M. No. 9-12/93-U.3 dated 5.8.94]

(6) Ministry of Human Resource Development should also approach Ministry of Home Affairs, Ministry of Personnel, Public Grievances & Pensions, Ministry of Finance and other concerned Ministries of Government of India, Departments of State Governments that any person who got employment in Government / Semi-Government organisations/State Government on the basis of Bachelor's degree awarded by Maithili University should not be removed from service or reduced in rank and none of their allowances which they are getting it was not their fault.

(7) However, where degree of Bachelor of Arts/Commerce is minimum qualification for promotion/sitting in the examination, the degree awarded by Maithili University should not be considered.

(8) The Committee would like to be apprised of the action taken by the State Government of Bihar and IG Police, Bihar, in this regard. The Committee considers UGC and Central Department of Education fully responsible for not taking timely action against Maithili University which functioned for years without any intervention or action by the UGC or Education Department. The Committee would like UGC to ensure that in future no institution in the country, which has not been established either under the Central/State Act or notified on the recommendation of UGC as an institution deemed to be a University, awards or claims to award a degree or diploma. Wide publicity both in press and on electronic media should be given to counter such an advertisement so that people are not cheated.

(8) The UGC *vide* its Registered letter no. F. 6-9/84 (CPP-I) dated 4th September, 1985 had drawn the attention of the self styled Maithili University to the provisions contained in the UGC Act, 1956 regarding establishment of Universities and award of Degrees, and had advised the self styled University to disassociate the word "University with its name and also stop awarding "Degrees" forthwith. Copies of the UGC's letter were also endorsed to the Secretary, Education Department, Government of Bihar, Patna, and Inspector General of Police/Commissioner of Police, Bihar, Patna, for information and further necessary action. Both were again requested by the Commission *vide* its letter dated 21st June, 1986 to intimate action taken by them against this fake University. The Commission *vide* its letter dated 19th February, 1987 had also requested the Vice Chancellor, L.N. Mithila University, Darbhanga, to apprise

them the position regarding functioning of the fake "University" followed by a reminder dated 9th April, 1987. In the meantime, the fake University filed a writ petition at the Patna High Court. The matter being sub-judice, no penal action could be taken against the institution. The UGC had on 27th October, 1988 again requested the Government of Bihar to taken legal action against the fake University. The Ministry of Human Resource Development *vide* its D.O. letter No. 5.9-8/89-U.3 dated 14th February, 1989 had also requested the Chief Secretary, Bihar, to take necessary legal action against the fake University under the provisions of the UGC Act and the Indian Penal Code under Section 420. The UGC is not aware of the action taken by the State Government of Bihar against the self styled University. The fake University had filed a court case (T.S. no. 44 of 1990) in the Court of First Munsif, Darbhanga, praying that the Commission (UGC) be restrained to issue Press Notices regarding the functioning of this fake University. The UGC and the Ministry of Human Resource Development were made parties to the case. The First Munsif, Darbhanga, has since dismissed the petition. It is understood that the self styled University has gone in appeal against this decision in the Court of District Judge, Darbhanga. Another writ petition No. 6875/1990 filed by Shri Himanshu Shekhar Koley and others *versus* the Ministry of human Resource Development and UGC praying for recognition of "Degrees" awarded by the fake

University is pending in the Calcutta High Court. The UGC has already filed a Counter Affidavit to this writ petition. No information has so far been received either from the Calcutta High Court or the Respondent or UGC's Counsel regarding the hearing of this writ petition. As regards issue of Press Notices, the Commission has been issuing press notices every year in leading National dailies/regional newspapers through the DAVP, New Delhi, cautioning the unsuspecting students not to pursue higher educational courses through self styled fake Universities. Simultaneously, the Commission has been writing to the Vice Chancellors of Universities to caution the students against the existence of self styled Universities. Press Notes were released by UGC on 21st December, 1988; 28th March, 1990; 15th July, 1992; 16th September, 1993 and 5th July, 1994. As soon as the press note is released through the DAVP, generally, the list of fake Universities alongwith the summary of the press note is telecast/broadcast over the electronic media, like the television and radio.

[Ministry of Human Resource Development O.M. No. 9-12/93-U.3 dated 18.5.95]