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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 830/2002

Friday, this the 24th day of October, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Jagan Nath S/o Sh. Mela Ram,
working as Helper Khallasi,
Northern Railway Station,
Bhiwani (Haryana)

Applicant

(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India through,
The General Manager,
Northern Railway, Bikaner Division,
Bikaner

2. The Divisional Railway Manager,
Northern Railway, Bikaner Division,
Bikaner

3. The Station Supdt.
Northern Railway Station,
Sirsa (Haryana) ...

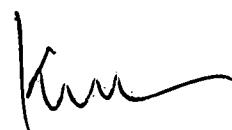
Respondents

(By Advocate : Shri R.L. Dhawan)

O R D E R (Oral)

Heard.

2. The applicant was working as Boiler Maker in the grade of Rs.800-1150 in Loco Shed, Sirsa. At the closure of the Loco Shed, the applicant was redeployed as Sealman in the lower grade of Rs.750-940 under Station Superintendent, Hissar. The applicant had made a protest against the appointment as Sealman since he was posted in the lower grade. His request was turned down by the respondents vide letter dated 17.6.1994 (Annexure A-9) by taking the plea that once he has been absorbed he can ask for change of category only and since the request made by the applicant was for change of grade, he should have made a proper application on the prescribed proforma. It seems that the applicant did not make any request thereafter for change of his grade.



3. Surprisingly after a period of three months vide letter dated 7.9.1994 (Annexure A-6) the D.P.O. Bikaner transferred the applicant to Carriage & Wagon Department as a Helper Khalasi in the same scale of Rs. 800-1150/-.. The applicant was earlier working as Boiler Maker in the Loco Shed. This change of ~~Grade~~ ^{Cadre} vide Annexure A-6 has been made suo moto by the Railway Department. However, the applicant thereafter continued to work as Sealman and has been making representations stating that since his request had been turned down by Annexure A-9 at least his seniority should be fixed in the seniority list of Sealman. No action has been taken and ultimately vide impugned order dated 27.2.2002 the applicant has been posted at Bhiwani as Helper Khallasi. This has been challenged by the applicant in this OA.

4. The respondents have contested the OA by filing the counter. Learned counsel appearing on behalf of the respondents first submitted that the OA is barred by limitation since the applicant has been posted as Helper Khallasi vide order dated 7.9.1994. The learned counsel for the applicant stated that though the applicant was ordered to be posted as Helper Khallasi in the year 1994, the order of transfer has been implemented only in the year 2002. So the application is well within the time. The learned counsel for respondents have also referred to the representation of the applicant dated 1.3.2002 (Annexure A-4) which shows that the applicant has obeyed with the order of transfer and resumed duty at Bhiwani. In paragraph 3 of the same representation the applicant has mentioned that inspite of his request not to go as Helper Khallasi in CRW and to retain him as

[Signature]

Sealman at Sirsa SS/SSA, the applicant has finally joined as Helper Khallasi at Bhiwani under protest only. Now the question arises is that once the Railway authority having declared the applicant absorbed in the ~~Category~~ ^{Category W} Sealman can they change the ~~grade~~ ^{Category W} of the applicant to that of Helper Khallasi without taking the consent of the applicant. Vide Annexure A-9 the respondents themselves have taken the stand that if an employee wants to change the ~~grade~~ ^{Category W}, he is required to apply in the prescribed proforma. Contrary to this, the respondents have themselves ^{taken} ~~took~~ suo moto decision and changed the ~~grade~~ ^{Category W} of the applicant which jeopardised his interests.

5. In my view, the Department once having accepted themselves that the applicant has been absorbed as Sealman could not have changed his ~~grade~~ ^{Category W}. Thus, the change of ~~grade~~ ^{Category W} from Sealman to Helper Khallasi made by the Department is against the rules. Accordingly the OA is allowed and the impugned orders dated 27.2.2002 and 7.9.1994 are quashed. The respondents are directed to post the applicant to the post of Sealman at Northern Railway Sirsa and also to fix the seniority of the applicant in the seniority list of Sealman with all consequential benefits. The above directions may be complied with within a period of two months from today.

No costs.



(KULDIP SINGH)
Member (A)

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