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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 478 1987
T.A. No.

DATE OF DECISION 11.1.88

Shri Bhola Ram **Petitioner**

Shri V.P. Sharma **Advocate for the Petitioner(s)**

Versus

U.O.I. & Others **Respondent**

Shri O.N. Moolri **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice-Chairman

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Because*

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Central Administrative Tribunal
Principal Bench, Delhi.

REGN. NO. OA 478 of 87 Date of decision 11.1.88

Shri Bhola Ram Applicant

Vs.

1. Union of India C/o The General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Bikaner.
3. The Divl. Superintending Engineer,
Northern Railway,
Bikaner Division, Bikaner. Respondents
4. The Asstt. Engineer (N.R.),
(M.G.) Delhi Jn.
5. Asstt. Permanent Way Inspector (N.R.),
Railway Station Pataudi Road,
Distt. Gurgaon.

PRESENT

Shri V.P. Sharma Advocate for the applicant
Shri O.N. Moolri ... Advocate for the respondents.

CORAM

Hon'ble Shri B.C. Mathur, Vice-Chairman

This is an application under Section 19 of the Administrative Tribunals Act, 1985, against the impugned orders dated 8.1.86 appointing the applicant as a regular Gangman on the basis of screening done by the respondents. The case of the applicant is that he was appointed as a Helper Khalasi on 11.3.77. He worked as a Blacksmith from November 20, 1977 upto 15.6.78. Thereafter again he reverted as a Khalasi and worked as such from 16.6.78 to 12.10.82. He again worked as a Blacksmith in Class III from 13.10.82 to 10.1.86 till the passing of the impugned orders. His case is that he had applied for screening for the post of a Blacksmith and not for the post of a regular Gangman and he cannot be appointed as a Gangman against his will. On the basis of the screening test and the impugned orders, the applicant had been appointed as a regular Gangman and worked as such till 23.8.87 when he was appointed as a Blacksmith from 24.8.87. According

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to the applicant, he had passed the trade test on 15.3.82, but he is being asked to take this test once again. His prayer is that the impugned orders should be quashed and he should be treated as a Blacksmith continuously with effect from 13.10.82 and regularised as such without having to pass any trade test now.

2. The learned counsel for the applicant cited ^{the}~~the~~ case of the Madras Bench of the Central Administrative Tribunal where in it has been held that no one can be forced to work on a post for which he has not applied and as he had not applied for the post of a Gangman, he cannot be appointed as such.

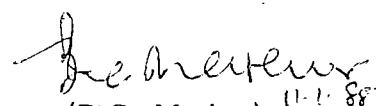
3. The case of the respondents is that the applicant had himself applied for screening test for the post of a regular Gangman and he was screened for that post and given the appointment of a regular Khalasi on the basis of such ^{screening}~~opinion~~. The learned counsel for the respondents produced the original application of the applicant where he has applied for such a screening. It was pointed out that there is some over-writing. ^A~~The~~ new column 8(a) has been added in the application which indicates the post for which the application has been made. The application is in Hindi. The words "Blacksmith" written in English have been deleted and the words "Gangman" are written prior to the words "Blacksmith". It is very difficult to establish that someone has substituted these words deliberately to harm the applicant.

4. It appears that the applicant was appointed as a Helper-Khalasi initially but had been working as a Blacksmith in Grade III. Perhaps he cannot be appointed as a regular Blacksmith unless he is first appointed as a regular Gangman and passes the requisite trade test. In pursuance of this, the applicant was screened and given the appointment of a regular Gangman and then on the basis of his experience and qualification, promoted as a Blacksmith on 24.8.87. The applicant has produced a paper (Annexure A-6) which shows that he was trade tested by the Assistant Engineer on 15.3.82. The applicant has also produced a number of papers which show

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that he has actually worked as a Blacksmith for a number of years. I do not think it would be very much material to go into the question whether the applicant had applied for the post of a regular Gangman or ^{Blacksmith} not, but in view of his experience it would be desirable if he is treated as a regular Blacksmith with the respondents with effect from the date he has been working as a Blacksmith. According to the applicant, he has been working as such with effect from 24.8.87. In case, he has already passed the trade test which can be verified from the records of the respondents, it should not be necessary for him to undergo this test once again. The request of the applicant to quash the impugned orders appointing him as a regular Gangman is rejected. However, he should be treated as a regular Blacksmith from the date he has been continuously working as such which is 24.8.1987. It is understood that the applicant has not actually been paid any salary for the period after passing of the impugned orders. All the arrears, if not already paid, should be paid to the applicant within a period of two months from the date of receipt of these orders. There will be no order as to costs.

Application is allowed partly.


 (B.C. Mathur) 11.1.88
 Vice-Chairman