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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.1528/2004

This the 7th day of February, 2006

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)**

Shri Banshi S/O Tribhu,
R/O Village Kankrola,
Post Bhangraula,
Distt. Gurgaon (Haryana). ... Applicant

(By P.K.Sharma, Advocate)

versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House, New Delhi.
2. Divisional Engineer N,
Northern Railway,
L-21, Hamilton Road,
Tis Hazari, Delhi.
3. The D.P.O.,
D.R.M. Office,
Northern Railway,
Pahar Ganj, New Delhi.

(Ms. Anju Bhushan, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

Applicant has challenged Annexure A-1 dated 10.6.2003 whereby applications have been invited from willing Sr. Khalasis/Khalasis (Way & Works) for filling up the vacancies of Hammerman, Sr. Hammerman, Welder Grade-III and Blacksmith Grade-III. Applicant is also aggrieved that though eligible to appear in the test to be held on 22.6.2004 in pursuance of Annexure A-1, he was not called to appear in the test. Applicant has sought the following reliefs:

“a) Quash the impugned order dated 10.6.2003 issued by the respondent No.2.

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b) Direct the respondents to call the applicant for appearing in the test to be held for the posts as mentioned in the office order dated 10.6.2003 copy of which is Annexure-A1.

c) Grant any other or further relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in favour of the applicant and against the respondents."

2. At the outset, we asked the learned counsel of applicant to explain whether the reliefs at (a) and (b) above are not contradictory to each other, in the sense that in case the impugned order dated 10.6.2003 is quashed and set aside, how shall the relief at (b) above be accorded to applicant. At this, the learned counsel gave up the relief at (a) above and submitted that the application be considered in respect of relief at (b) above only.

3. The learned counsel of applicant stated that while applicant was appointed as a casual employee on 23.11.1978, he was appointed as Gangman in 1984 but respondents had been taking the work of Blacksmith from him eversince. As such, it is claimed that applicant was eligible to appear in the test notified vide impugned Annexure A-1 dated 10.6.2003. The learned counsel further stated that applicant had submitted his application in response to Annexure A-1 but he was not called for the related test held on 22.6.2004. He further stated that many employees who had been working as Gangman had been appointed/promoted as Blacksmith, Mason, Hammerman, Carpenter and Welder. For instance, Prabhu S/O Sudhar working as Gangman was appointed as Blacksmith; Prabhu Dayal, Gangman was appointed as Mason; Gama Ram, Gangman was appointed as Pipe Fitter; Ram Dev, Gangman as Mason; and Sadhu Ram, Gangman as Hammerman, etc. On being asked whether averment has been made in the OA regarding submission of application by applicant in response to Annexure A-1 dated 10.6.2003, the learned counsel referred to paragraph 4(iii) of the OA. It reads as follows:

"iii) That the applicant has been performing the duties of Blacksmith since the year 1984 and has the experience of



the same. The duty pass given to the applicant and filed herewith as Annexure-A2 clearly shows that the respondents have been taking the work of blacksmith from the applicant. Although, the designation given to the applicant is Gangman, but since the year 1984, the applicant is performing the duties of Gangman and hence he is eligible for the same and he has also requisite experience in respect of the work of blacksmith. Hence the applicant is the most eligible candidate for appointment to the post of blacksmith. However, the respondent has ignored the applicant and he has not even been called to appear in the test."

It is observed from perusal of paragraph 4.3 of the OA that there is no mention of submission of an application in response to Annexure A-1 by applicant.

4. Then the learned counsel referred to applicant's rejoinder stating, "the applicant was not allowed to apply for the same." At this, the learned counsel was asked to indicate the proof that applicant was not allowed to apply for the post of Blacksmith. The learned counsel failed to indicate any such proof.

5. The learned counsel of respondents submitted that applicant being a Gangman was neither eligible to appear in the test in question nor did he make any application. As regards appointment of certain Gangmen as Blacksmith, the learned counsel explained that such Gangmen had been appointed as such under a different scheme/policy and applicant cannot equate himself with them, as he is not similarly placed. Moreover, he had not made any application for consideration.

6. We have considered the respective contentions of parties as also perused the material on record.

7. Admittedly, applicant has been working as a Gangman since 1984. Even if it were true that respondents had been taking the work of Blacksmith from him eversince, he remains a Gangman until he is appointed as Blacksmith. Thus, he cannot be considered as eligible for filling up the post of artisan staff Grade-II in terms of Annexure A-1 dated 10.6.2003. No proof has been submitted on

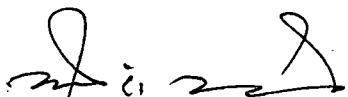




behalf of applicant for his efforts for submission of an application in response to Annexure A-1.

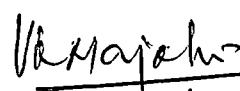
8. As respects appointment of certain Gangmen as artisan staff Grade-II, respondents have stated that applicant cannot be equated with them as they had been considered under a different scheme/policy. In terms of Annexure A-1, only Senior Khalasis/Khalasis (Way and Works) were eligible for filling up vacancies of artisan staff Grade-II. Applicant has not shown any rules or instructions under which a Gangman is eligible for consideration for filling up the post of artisan staff Grade-II.

9. If one has regard to the discussion above, applicant as Gangman is neither eligible for consideration for filling up the post of artisan staff Grade-II nor did he make any application in response to Annexure A-1. In this backdrop the OA is dismissed as being without merit. No costs.



(Mukesh Kumar Gupta)
Member (J)

/as/



V. K. Majotra
7.2.06
(V. K. Majotra)
Vice-Chairman (A)