

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 1055 OF 1997.

ALLAHABAD THIS THE 17TH DAY OF JANUARY 2007.

HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN.

HON'BLE MR. M. JAYARAMAN, MEMBER-A

Hemant Kumar Pathak son of H.P Pathak, Resident of House
No. 10, Baski Khurd, Daraganj, Allahabad.

.....Applicant

(By Advocate: Sri M.K. Upadhyaya)

Versus.

1. The Union of India, through the Divisional Rail
Manager, Northern Railway, Allahabad.
2. The Chief Administrative Officer (Construction),
Northern Railway, Kashmeeri Gata, Delhi-6.
3. The Chief Electrical Engineer (Construction),
Northern Railway, Tilak Bridge, New Delhi.
4. The Deputy Chief Electrical Engineer
(Construction), Northern Railway, Allahabad.

.....Respondents

(By Advocate: Sri P. Mathur)

O R D E R

BY MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN.

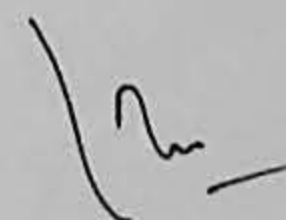
The applicant has filed this original application for directing the respondents to pay him salary in the scale of Rs.950-1500 and to promote him to that scale after giving him due seniority. He has come with the case that he was initially appointed in 1982 as a Casual Khalasi (Daily Wages). It is stated that screening test was held and applicant was regularized vide letter dated 28.2.1984 (A-4). In 1990 some of the casual Khalasis allegedly junior to the applicant filed one Original Application No.264/1990 claiming their promotion to the skilled grade of Rs.950-1500 which this Tribunal allowed vide order dated 18.2.92 (Annexure A-5). It is stated that on the basis of said judgment dated 18.2.1992, 12 persons were promoted to the grade of Rs.950-1500. The applicant also represented for the same benefit but nothing was done by

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the respondents on that representation, so he has come to this Tribunal.

3. The respondents have filed reply contesting the claim. According to them, unless and until an employee is selected to particular post and promoted to a grade, he is not entitled for pay and allowance of that post and since the applicant is working against Group 'D' post, so his claim for pay Group 'C' is not wellfounded. It is admitted that a few persons filed the Original Application in 1990 for giving the grade of Rs.950-1500 and on the basis of judgment given therein, they were promoted. They say that since the applicant is working in a separate unit under Electrical Foreman "Construction" and since those applicants in that original application No. 264/1990 belonged to "Concrete Sleeper" Plant so that applicant cannot claim parity with them. It is stated in para 11 that whenever the persons of Electrical Wing of T.R.D. Department will be considered for promotion in the said grade, the case of the applicant will be considered in order of seniority against 25% quota of Direct Recruitment of skilled categories of Group 'D' employee. In para 13, it is conceded that the services of the applicant as Khalasi were regularized vide panel dated 28.2.1984 and 29.4.1991.

4. We have heard parties counsel and have considered the material placed on record. This much is not in dispute that the applicant is holding I.T.I certificate and is a regular Khalasi. There is further no dispute that some of such Khalasis filed original application No. 264/1990 and succeeded therein and were given promotion to the Skilled grade of Rs.950-1500 without being subjected to any Trade Test. The applicant is also claiming the same benefit. The respondents cannot deny the said benefit to him if similarly situated junior has been given that benefit. The applicant has already given representation and same is pending with the respondents.

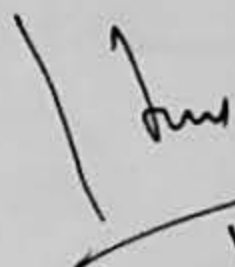


5. So the Original Application is disposed of with a direction to the respondent No.4 or any appropriate authority to whom the functions of respondent No.4 have been transferred, to consider the representation of the applicant having regard to the judgment dated 18.2.1992 rendered in Original Application NO. 264/1990 within a period of four months from the date a certified copy of this order together with the copy of the said representation is produced before him.

No costs.



Member-A


17.1.07

Vice-Chairman.

Manish/-