

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION NUMBER 460 OF 1997

ALLAHABAD, THIS THE 05<sup>th</sup> DAY OF OCTOBER, 2004

HON'BLE MR. JUSTICE S. R. SINGH, V.C.  
HON'BLE MR. D. R. TIWARI, MEMBER(A)

Krishna Kumar aged about 30 years,  
s/o Shri Achchevar, r/o Railway Quarter No.P-2,  
Railway Station Colony, Shahjahanpur.

.....Applicant

(BY Advocate : Shri S.K. Mishra)

V E R S U S

1. Union of India through the  
Divisional Railway Manager,  
Northern Railway, Moradabad.
2. Assistant Engineer, Northern Railway,  
Shahjahanpur.
3. The Inspector of Works,  
Northern Railway,  
Distt. Shahjahanpur.

.....Respondents

(By Advocate : Shri P. Mathur)

O R D E R

By Hon'ble Mr. Justice S.R. Singh, V.C.

The applicant worked as Casual Khalasi at Moradabad Division of Northern Railway for several years and later he was granted temporary status and was subjected screening test for purpose of regularisation along with several other, similarly circumstanced temporary status casual khalasis including Ramesh applicant of O.A. No. 366/1997 and Satyadeo & Molmd.Safiq Ahmad applicants in O.A. No.14/97.

.....2/-

2. The respondents instead of absorbing the applicant as Khalasi directed him to work as Gangman whereupon the instant O.A. has been instituted for the following amongst other reliefs:-

- (i) to issue <sup>a</sup>writ order or direction in the nature of mandamus directing the respondents not to post the petitioner as Gangman in the pay scale of Rs.775-1025/- and not to compel him to work in the aforesaid post in view of refusal given by the petitioner.
- (ii) to issue a writ, order or direction in the nature of mandamus directing the respondents to permit the petitioner to continue to work as Khalasi in the pay scale of Rs.750-940/- with temporary status.

3. The case of the respondents is that there was no vacancy in the cadre of Khalasi and therefore, the applicant was required to work in the cadre of Gangman in the scale of Rs.775-1025/- but the applicant is not prepared to work in the higher scale of pay Rs.775-1025/- as Gangman for the reason that he has been working and discharging duties for last several years as Khalasi and it would be unjust to now to ask him to work as Gangman in which there is no promotional avenues. A perusal of the letter dated 04.01.1997 annexed as Annexure-2 to the O.A. indicates that there were 24 vacancies of permanent khalasi and accordingly request was made for appropriate orders with regard to regularisation of casual labour of engineering department. The Divisional Railway Manager, Moradabad Division vide his order dated 16.02.2000 (Annexure-I to M.A. No.1649/02) has made it clear that while agreeing to the change of category, individual interests are not sacrificed and particularly illiterate people need to be explained full implications of the change of category before their application for change of category is concerned.

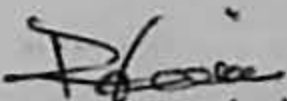
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In the instant case the applicant never requested for change of category from Khalasi to Gangman.

4. Shri Prashant Mathur, counsel for the respondents, on the other hand placed reliance on the letter dated 15.03.1997 annexed as Annexure CA-4 wherein it is indicated that there was no vacancy available on which applicant could be appointed as Khalasi. In O.A. No.366 of 1997 Ramesh Vs. U.O.I. & Ors., the applicant therein was also screened alongwith the applicant herein, the Tribunal gave direction to the respondents to consider the applicant therein afresh for absorption as Khalasi in Engineering Department in the light of policy decision of the Railways, mentioned in the letter dated 06.09.1996 and in case any junior to the applicant therein had been absorbed as Khalasi, necessary orders for his absorption would be passed. Similar order was passed in O.A. No.14/97. The applicants therein were screened for regularisation/absorption as Khalasi along with applicant.

5. Following the decisions in the aforesaid the respondents are directed to consider the applicant afresh for regularisation/absorption on the post of Khalasi against existing vacancy in accordance with relevant instructions issued on the point. Decision shall be taken within a period of 03 months from the date of receipt of a copy of this order. The OA is disposed of accordingly.

6. There shall be no order as to costs.

  
Member (A)

  
Vice-Chairman