

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

PRESENT

HON'BLE MR.JUSTICE A.K. YOG, MEMBER (J).
HON'BLE MR. K. S. MENON, MEMBER (A).

ALLAHABAD this the 03rd day of *September, 2008*.

Original Application Number. 837 OF 2001.

1. Surendra Kumar Sharma, a/a 46 years, S/o Sri Jayanti Prasad Sharma, R/o L-1A, Imli Line, Railway Colony, Moradabad.
2. Prit Pal Singh, a/a 50 years, S/o Kripal Singh, R/o near Loco Shade, Moradabad.

.....Applicants

By Advocate: Sri T.S. Pandey

V E R S U S

1. The Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad.
3. Senior Divisional Mechanical engineer, Northern Railway, Moradabad .
4. Divisional Mechanical Engineer, Northern Railway, Moradabad.
5. Babu Lal Mina, Driver Mail.
6. Sukhvir Singh, Driver Pass Lakshar.
7. Maya Prasad Mishra, Driver Pass Roza.
8. I.S. Nigam, Senior Driver Goods Haridwar.
9. D.D. Attwell, Driver Goods, Moradabad.
10. Puran Mal, Senior Driver Goods, Dehradun.

All from Sl. No. 5 to 10 through Division Railway Manager, Northern Railway, Moradabad.

Respondent Nos. 5 to 10 have been impleaded vide Court's order
Dated 19.03.2002.

.....Respondents

By Advocate: Sri A. Tripathi for respondents 1 to 4.

Arv

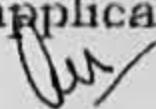
ORDERDELIVERED BY: HON'BLE MR. JUSTICE A.K. YOG, J.M.

During course of arguments learned counsel for the applicants referred to various dates and documents annexed with the O.A. It is conceded by the learned counsel for the applicant that vital dates have not been correctly disclosed/mentioned/typed in the O.A. Vital pleas (viz- the applicant did not possess order of 'abolition of post of 'Driver Monitor' – erstwhile 'Loco Inspector') sought to be raised in the O.A, cannot be appreciated on the basis of existing pleadings. In view of the above we have no doubt that the applicants were handicapped and could not effectively pursue remedy for redressal of their grievance.

2. Learned counsel, however, endeavors to submit that the order in question (abolition of post) has been passed by an officer below the rank of 'General Manager' whereas such order could be passed only by General Manager or an officer higher in rank of General Manager.

3. We note that in the relief clause in O.A, it has came that 'order dated 10.12.2000 was passed by respondent No. 1' / General Manager. Argument of the learned counsel for the applicant regarding competence of authority abolishing the post in question is not in consonance with what has been stated in relief clause. Arguments of the applicant lack coherence.

4. There appears to be some contradiction/relevant links missing. In view of this, it is not possible for this Tribunal to decide the issue/contentions raised by the applicants in this O.A.



5. In the result, O.A is rejected without entering into merits of the case and with direction that the applicants may avail themselves of the remedy before competent authority by submitting comprehensive representation, if so advised. At this stage learned counsel for the applicants requests for continuance of interim order till decision of representation whereas Sri Avanish Tripathi, learned counsel for respondent Nos. 1 to 4 has opposed the same. Having considered the facts of the instant case and the settled law, we may observe that the interim order ~~passed by this Tribunal~~ ^{as in the O.A.} merges ^{as} into the final order passed today.

6. There will be no order as to costs.

Yerwani

MEMBER (A)

R.K. J

MEMBER (J)

/Anand/