

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No. 71 of 2004.

Allahabad this the 29th day of January 2004.

Hon'ble Maj Gen K.K. Srivastava, A.M.  
Hon'ble Mr. A.K. Bhatnagar, J.M.

D.K. Tiwari  
s/o Shri Awadhesh Kumar Tiwari  
aged about 46 years  
Presently serving as an Assistant  
Executive Engineer (Construction),  
North Central Railway, Agra Cantt, Agra.

.....Applicant.

(By Advocate : Sri A.K. Dave)

Versus.

1. Union of India  
through Secretary,  
Ministry of Railways,  
Railway Board, Rail Bhawan,  
New Delhi.
2. General Manager,  
North Central Railway,  
Allahabad.
3. Chief Engineer,  
North Central Railway,  
Allahabad.
4. General Manager  
Central Railway  
Mumbai CST.

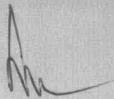
.....Respondents.

(By Advocate : Sri A.K. Gaur)

O\_R\_D\_E\_R

(Hon'ble Maj Gen K.K. Srivastava, A.M)

In this O.A., filed under section 19 of  
Administrative Tribunals Act 1985, the applicant has  
sought for direction to respondent No.1 to consider the  
option of the applicant for North Central Railway  
against the vacancy and interpolate the name of the



applicant in the list of the officers of Group 'B' service of Civil Engineering Department under North Central Railway duly circulated vide letter dated 24.09.2003 (Annexure VI).

2. The facts of the case are that the applicant is presently working as Assistant Executive Engineer (Construction) in North Central Railway, Agra Cantt, Agra as Group 'B' officer. The grievance of the applicant is that since the notification dated 22.08.2002 was not received by his office he could not give his option for retention in North Central Railway (In short N.C.R.) by cut off date i.e. 23.09.2002. The moment the applicant came to know of <sup>Notification dated 22.8.2002</sup> which he filed option in duplicate on 18.11.2002. The prayer of the applicant is that since the copy of the notification was not circulated and received by his office, his case <sup>in merits</sup> made consideration and his option exercised for retention in N.E.R. should be considered <sup>fairly</sup>.

3. Resisting the claim of the applicant, Sri Vinodt's Kumare holding brief of Sri K.P. Singh learned counsel for the respondent No. 4 that the matter is pending with the Railway Board and it would be desirable to await the decision of the Railway Board in the matter. Sri A.K. Gaur learned counsel for the respondents No. 1 to 3 submitted that the notification dated 22.08.2002 was widely circulated and, therefore, the applicant can not take the plea of the ignorance of such notification. He has submitted his option late i.e. much after the cut-off date. The O.A. deserves to be dismissed. Learned counsel sought for short time to file counter so that he could bring on record about the circulation of the notification dated 22.08.2002. We are not inclined to grant any time for filing counter affidavit by the learned counsel for the respondents as in our considered opinion, this is

a fit case to be finally disposed of at the admission stage itself.

4. We have heard counsel for the parties, considered their submissions and perused the records.

5. The applicant has placed his application dated 18.11.2002 as Annexure No.II by which he has brought out the reasons for delay in submitting his application in regard to exercising his option for continuance in N.C.R. The General Manager, Central Railway has already forwarded the application<sup>s</sup> submitted by the applicant by letter dated 01.01.2003 (Annexure IV) to Secretary, Railway Board, Rail Bhawan, New Delhi for consideration. It is submitted by applicant that so far the decision of the Railway Board has not been communicated and applicant is still not aware about absorption in a particular <sup>Rail</sup> way.

6. In the interest of justice, we consider that the appropriate direction to be issued to the Railway Board to decide the matter which is pending before <sup>the</sup> ~~the~~ <sup>the</sup> Board since 01.01.2003 regarding acceptance of the option of the applicant, <sup>the</sup> ~~regarding~~ absorption in N.C.R.

7. In the facts and circumstances, we direct the respondent No.1 i.e. Secretary, Railway Board to take the final decision in the matter within a period of two months from the date of communication of this order.

8. With the above direction, the O.A. stands disposed of at the admission stage itself.

No order as to costs.

Member-J.

**Member-A.**

Manish/-