

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD**

THIS THE 4<sup>TH</sup> DAY OF November 2011

**HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)**  
**HON'BLE MR. D. C. LAKHA, MEMBER (A)**

**ORIGINAL APPLICATION NO. 1389 OF 2005**  
(U/S 19, Administrative Tribunal Act, 1985)

1. Mohd. Naseem S/o Abdul Salam, aged about 47 years.
2. Mohd. Yaseen S/o Sadeeq, aged about 42 years.
3. Irshad Ahmad S/o Kallu Miyan, aged about 47 years.
4. Irfanul Hasan S/o Badrul, aged about 47 years.
5. Qasim Ali S/o Niyamat Ali, aged about 47 years.
6. Mohd. Mahboob S/o Nasir Ahmad, aged about 48 years.
7. Mohd. Naseem, S/o Mohd. Saeed, aged about 47 years.
8. Aslam Khan. S/o Babban Khan, aged about 47 years.
9. Mohd. Yaqub, S/o Sadeeq, aged about 45 years.
10. Beni Madhav Singh, S/o Ram Janam Singh, aged about 47 years.
11. Girija Prasad, S/o Sadho Ram, aged about 47 years.
12. Muneshwar Prasad, S/o Jiya Lal, aged about 44 years.

All are working under the Chief Health Inspector Station Allahabad Railway Station, North Central Railway, Allahabad, in Allahabad Division of North Central Railway under the Administrative Control of Senior Divisional Commercial Manager and Divisional Railway Manager, North Central Railway Allahabad and performing duties of Bhisty.

.....Applicants

**V E R S U S**

1. Union of India through the General Manager, North Central Railway, Head Quarters Office, Allahabad.
2. The General Manger, North Central Railway, Headquarters Office, Allahabad.
3. The Divisional Railway Manager, North Central Railway, D.R.M. Office, Allahabad.
4. Senior Divisional Commercial Manager, North Central Railway, D.R.M. Office, Allahabad.
5. Station Superintendent, Allahabad Railway Station, North Central Railway, Allahabad.

*Sunder*

6. The Chief Health Inspector, North Central Railway,  
Allahabad Railway Station, Allahabad.

..... Respondents

Present for the Applicant: Sri S. S. Sharma.

Present for the Respondents: Sri Anil Kumar.

ORDER

Instant O.A. has been instituted for giving a direction to the respondents to redeploy/post the applicants on any other post than the post of 'Safaiwala' as per provisions of Railway Board's order dated 21<sup>st</sup> April, 1989 (Annexure-A-14). Further prayer has also been made for giving direction to the respondents to create/sanction/special supernumerary post for the applicants, to work as 'Bhisty' for the period till they are redeployed in other Group 'D' category and post them in any other post other than 'Safaiwala' as per rules and not to post them as 'Safaiwala'.

2. The facts of the case may be summarized as follows:-

It has been alleged by the applicants twelve (12) in number that they had been working under the control of Chief Health Inspector, N.C.R., Allahabad, Railway Station, Allahabad and performing the duties of Bhisty. That the applicants were directly appointed on the post of Bhisty about 22 to 30 years before on different dates in the year 1976

*Suresh*

to 1987 in commercial department of Northern Railway at present North Central Railway. That the applicants had worked as Bhisty and they have got the right to work as Bhisti and not as Safaiwala. Some of the applicants are Muslim and some of them are Hindu, but they don't belonged to the cast of Sweeper (Balmiki) and they can only work as Bhisty and not as Safaiwala and their pay scale was Rs.2610-3540/- and they worked on the post of Bhisty/Safaiwala. That the respondents are compelling the applicants to work as Safaiwala against their cast, social custom as well as religion and it will affect their social status and due to this they will be out casted from their caste and religion and due to this they will have to face lot of humiliation, and the respondents were required to deploy the applicants on the post equivalent to the post Group 'D' other than 'Safaiwala'. Several representations were made by the applicant to the respondents, but they had not paid any attention, hence the O.A..

3. Respondents contested the case and filed Counter Reply and denied from the allegations made in the O.A.. It has further been alleged that the applicants were posted as Bhisty under the control of respondents' administration, they were engaged

*Stewart*

for sweeping work by filling their Masak with water and sweeping the platform etc.. That due to modernization of science and revolution in sanitation work, pipe lines have been made available for the said purpose and the work of Musak has become redundant and due to this change circumstances the post of Bhisty were surrendered by order of D.R.M.(P) vide letter dated 04<sup>th</sup> January, 2000 and all the Bhisty have been re-deployed as Safaiwala and all the applicants have been informed accordingly. That the applicants are getting salary as Safaiwala. The Hon'ble Apex Court has also held that in the modern time no post is meant for any religion or caste, and this judgment of the Hon'ble Supreme Court has been followed in several other cases of the C.A.T.. That the allegations made in the O.A. are wrong and the O.A. lacks merits and liable to be dismissed.

4. Rejoinder Affidavit has also been filed in response to the Counter Affidavit of the respondents

5. We have heard Sri S.S. Sharma, Advocate for the applicant and Sri Anil Kumar, Advocate for the respondents and perused the entire facts of the case.

*Subray*

6. It is an admitted fact as is evident from the pleadings of the parties that all the applicants were initially appointed on the post of Bhisty and they worked as Bhisty. It is also admitted that the scale of pay of the applicant is Rs.2610-3540(RSRP). It has been alleged by the applicants that the respondents issued a notification by which the post of Bhisty has been surrendered and accordingly the post of Bhisty has become surplus and they have been redeployed as Safaiwala against existing vacancy/future vacancy of Safaiwala and accordingly in pursuance of the order of the D.R.M. all the posts of Bhisty were surrendered and they were adjusted on the post of Safaiwala. Learned counsel for the applicant argued that all these applicants belonged to Muslim community from sl. No.01 to 09 and Hindu from sl. No. 10 to 12. That they don't belong to the caste of Sweeper (Balmiki) and the work of Safaiwala is distinct from the work of Bhisty, hence the applicants cannot be compelled to work as Safaiwala in place of Bhisty and it will be a social stigma and they have got the apprehension that they will be out casted due to this reason. There are rules of the Railway Board that incase a post become surplus then an employees is to be adjusted/accommodated on some other equivalent post

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other than the post of Safaiwala. That as per rules applicants ought to have been accommodated on any other post of Group 'D' other than Safaiwala. That applicants have got the right to work as Bhisty. Several letters have also been filed that incase employees are declared surplus then they shall be adjusted/accommodated to other equivalent post.

7. It has been argued by the learned counsel for the respondents that the post of Bhisty and Safaiwala are equivalent and carry the same scale of pay Rs.2610-3540/- and the nature of work of Bhisty and Safaiwala are some how same. That in the modern time the post of Bhisty has rendered redundant as water pipes are available and work of cleaning is being done by pipes etc. That these applicants have been redeployed on the post of Safaiwala after surrender of the post of Bhisty and it cannot be said that the post of Safaiwala is below dignity.

8. Learned counsel for the applicant mainly argued that as the work of Bhisty is different from that of Safaiwala and hence the applicants cannot be compelled to work as Safaiwala. Relevant Railway Rules have also been produced in order to show <sup>as to</sup> ~~that~~ what the term 'Safaiwala' meant and the term 'Safaiwala' should

*Sub Ego*

be used to denote only such of the Group 'D' (Class-IV) staff who are primarily engaged on scavenging duties, sweeping platforms, sweeping latrines in trains as well as in premises or any other similar job. Whereas, all the applicants had worked as Bhisty and work of Bhisty is to provide water for sweeping at the platform etc. and this work is entirely different. Learned counsel for the respondents placed reliance on a judgment of the Hon'ble Apex Court reported in (1985) (Suppli) S.C. 714 K. C. Vasanta Vs. State of Karnataka the Hon'ble Apex Court held that "urbanization, member of beacons castes are slowly giving up traditional occupations and the concept of pure and impure avocations is being formed upon by developing nation of labour." Hence learned counsel argued on the basis of judgment of the Hon'ble Apex Court that the contention of the applicant is unfounded that they belonged to high caste and they cannot perform the duties of Safaiwala. Learned counsel also argued that Railway Board issued a letter clearly stating that it is mistaken fact that the post of Safaiwala should only be meant for a particular community, as a matter of functions of Safaiwala have of late been so modernized that even cleaning of toilets in the trains or for that matter in the buildings has been

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done with the help of sophisticated instruments etc. and if an individual medically de-categorized is not adequately qualified for certain other posts, and if Safaiwala is the lone post available, then a person can be accommodated on that post and such an employee will have to accept that post of Safaiwala and that in view of the judgment of the Hon'ble Apex Court as the post of Bhisty has been surrendered due to modernization of the equipments and the post of Bhisty has become redundant and hence all those employees who had been working as Bhisty have been redeployed as Safaiwala vide order dated 04<sup>th</sup> January, 2000. That the applicants are also working as Safaiwala at present after surrender of the post Bhisty.

9. As the Hon'ble Apex Court also held that that nowadays no person can say that he belonged to beacons caste and hence he cannot perform the duties of Safaiwala, because nowadays a person can be deployed/engaged for any work including Safaiwala. Learned counsel for the respondents argued that in several judgments the C.A.T. has accepted this contention. Learned counsel for the respondents cited an order of C.A.T. Joadhour Bench passed in O.A. 229 of 2001 dated 30<sup>th</sup> august, 2001, we have

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perused this order of the C.A.T. Joadhpur Bench and we are of the opinion that in the matter before the C.A.T. Joadhpur Bench the controversy was identical and it has been held by the C.A.T., Joadhpur Bench "...The dignity of labour is one of the recognized principles in the social order that we have developed in India and particularly Article 14 of the Constitution ensuring the right to equality to every one irrespective of religion, race, caste, sex or place of birth. Therefore, one should not think that the post of Safaiwala is of lesser dignity than the post of Bhisty when admittedly, they are equivalent posts with the same pay scale and both cannot be distinguished." If a Bhisty has been redeployed on the post of Safaiwala then he cannot refuse to work on that post of Safaiwala on the ground that it is below his dignity and no body can be discriminated on the basis of caste, race, religion sex etc. hence we disagree with the learned counsel for the applicant that the applicants are belonged to higher caste and they cannot work on the post of Safaiwala and that the post of Safaiwala is only meant for the persons of Balmiki caste, but it is not like that, but in the modern time and when the Constitution ensured the right to equality to everyone irrespective of religion, race, caste, sex

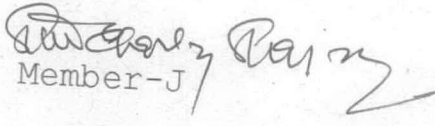
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or place of birth etc. We disagree with the argument of the learned counsel for the applicant that the respondents committed illegality in redeploying the applicants on the post of Safaiwala after surrendering the post of Bhisty. There is no justification either to revive the post of Bhisty for these applicants or to create supernumerary post to accommodate these applicants, in our opinion there is no substance in the arguments of learned counsel for the applicant.

10. For the reasons mentioned above, we are of the opinion that there is no substance in the contention of the applicants' Advocate, O.A. lacks merit and liable to be dismissed.

11. O.A. is dismissed. No order as to costs.

  
Member-A

  
Member-J

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