

(23)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ORIGINAL APPLICATION NO. 242 OF 2005

CONNECTED WITH

ORIGINAL APPLICATION NO. 168 OF 2005.

ALLAHABAD THIS THE 26TH DAY OF APRIL 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

1. Raghavar, son of Shri Banshi.
2. Ram Charan, son of Shri Bishwanath, All Track Man Under Section Engineer, (P. Way), Fatehpur, District Fatehpur.

.....Applicants in O.A. No.242/05

(By Advocates: Sri Satish Dwivedi/Sri R. Verma/Sri S.K. Yadav)

Versus.

1. Union of India through the General Manager, North Central Railway, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad.
3. Senior Section Engineer (P.Way) North Central Railway, Fatehpur.
4. Chief Medical Inspector North East Railway, Kanpur.
5. Mandal Karmik Adhikari, North Central Railway, Allahabad.

.....Respondents in O.A No.242/05

(By Advocates: Sri T.N Koel)

WITH

ORIGINAL APPLICATION NO. 168 of 2005.

1. Ramchandra son of Vipati.
2. Ram Surat, son of Shiv Mandal.
3. Daya Ram, son of Chandrika.
4. Ram Chandra, son of Ganesh Prasad.
5. Shiv Bodhan, son of Manna.

All Track Man under Section Engineer (P. Way), Fatehpur, District Fatehpur.

.....Applicants in O.A. NO.168/05

(By Advocates: Sri A.D. Singh/Sri S. Dwivedi)

Versus.

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1. Union of India through the General Manager, North Central Railway, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad.
3. Senior Section Engineer (P.Way) North Central Railway, Fatehpur.
4. Chief Medical Inspector North East Railway, Kanpur.
5. Mandal Karmik Adhikari, North Central Railway, Allahabad.

.....Respondents in O.A No.168/05

(By Advocate : Sri Sushil Kumar)

ORDER

Both the applicants have prayed that the impugned orders dated 26.1.2005 and 10.2.2005 be quashed with a direction to the respondents not to interfere with the peaceful working on the post of Trackman under Section Engineer, (P. Way), Fatehpur.

2. Their case, in brief is that applicants have had been working as Trackman since 1981 under Section Engineer, (P. Way), North Central Railway, Fatehpur and it was on 26.1.2005 and 10.2.2005 that the impugned order were passed for medically decategorising them and adjusting them on the post of Safaiwala under Chief Medical Inspector, North Eastern Railway, Kanpur. They say that the applicants cannot be compelled to join on the post of Safaiwala.

3. The respondents have filed reply contesting the claim. They say that their medical decategorization was as per Rule and they were rightly adjusted on the post of Safaiwala.

4. Learned counsels for the applicants in both the O.As have stated that during the pendency of these O.As, the applicants have been absorbed/adjusted on the post of Khalasi/Chaukidar and have started working and they have no grievance now, as regards their adjustment, after medical decategorization. Learned counsels have, however, stated that the applicants are entitled to pay for the period from 27.1.2005 (when they were ^{relieved} ~~reverted~~) after medical decategorization) to the respective dates of their joining on the post of Chaukidar/ Khalasi and directions should be issued to the respondents to pay the same. It is said, earlier, this Tribunal had, by interim orders, asked the respondents to maintain status quo.



5. The Tribunal is of the view that after the applicants have been absorbed/adjusted on the post of Khalasi/Chaukidar and after they have accepted that position, challenge to medical decategorization has become groundless. In so far as the order of Status quo is concerned, it appears that these orders were passed after the applicants stood relieved from the post of Trackman after medical decategorization. In any case, their claim for salary for intervening period has to be settled by the respondents in accordance with Rules, keeping in view the pendency of these matters and the interim order etc. The respondents should be more practical, than technical, in considering the claim for salary for intervening period. They may proceed as if these persons were not given alternative employment till the date they joined on the posts of Khalasi/Chaukidar.

6. So these O.As are finally disposed of with a direction that applicant shall give a self contained representation to the respondent NO. 3, in regard to their claim for the salary for a period from 26.1.2005 to the date of their joining on the post of Khalasi/Chaukidar and thereupon respondent No.3 shall take decision, within a period of three weeks, from the date a certified copy of the order together with copy of the said representation is produced before him.

No costs.

Jan 7th
26.1.07

Vice-Chairman

Manish/-