

**Open Court**

**Central Administrative Tribunal, Allahabad Bench, Allahabad**

**This the 24<sup>th</sup> day of August, 2021.**

**Hon'ble Mr. Tarun Shridhar, Member (A)**

**Hon'ble Ms. Pratima K Gupta, Member (J)**

**Original Application No. 330/365/2010**

1. Shri Paramjeet Kumar, Clerk-cum-typist, Central Organisation, Railway Electrification, Allahabad.
2. Pankaj Malik, Clerk-cum-typist, Central Organisation, Railway Electrification, Allahabad.

**..... APPLICANTS**

**By Advocate: Shri M.K. Upadhyay**

**Versus**

1. Union of India through General Manager, North Central Railway Allahabad.
2. General Manager, Central Organisation, Railway Electrification, Allahabad.
3. General Manager, Western Railway, Church Gate, Mumbai.
4. Divisional Railway Manager Personnel, Western Railway, Ratlam Division.
5. Chief Personnel Manager, North Central Railway, Allahabad.
6. Anil Kumar Vidyarthi clerk Core Allahabad.

**..... RESPONDENTS.**

**By Advocate: Shri Ram Pal Singh and Shri Rajesh Pandey**

**ORDER**

**Delivered By Hon'ble Mr. Tarun Shridhar, Member (A)**

Heard Shri M.K. Upadhyay, learned counsel for the applicants and Shri Rajesh Pandey, learned counsel for the respondents and perused the records.

2. The brief facts of the case are that the applicants seek permanent absorption and lien in the North Central Railway, Allahabad as Clerk cum Typist on the ground that as far back as the year 1992, these two cadres had been merged. It is an admitted fact that the applicants are regular employees of the Indian Railways and subsequent to a circular issued by the respondents, they along with some others had given option for regularization in North Central Railway, Allahabad. While the request of one Shri Anil Kumar Vidyarthi was accepted, a similar request of the applicants was rejected and they agitated the matter in O.A. No. 1395/2006. In that O.A., vide order dated 31.07.2009, a direction was given to the respondents, specifically to the General Manager (P), North Central Railway, Allahabad to pass an appropriate reasoned and speaking order on the representation of the applicants for regularization in the North Central Railway and to decide the representation of the applicants in the light of Circular of Railway Board dated 15.09.2006.

3. To cut a long story short, the representation filed by the applicants was rejected by the authorities on the ground that since North Central Railway was a new zone, limited number of posts were created there and the typist who had applied for merger transfer, were placed on the priority list and the names of Shri Paramjeet Kumar and Shri Pankaj Malik, the present applicants were inadvertently placed on the separate list on account of the clerical error.

4. The learned counsel for the applicants argues that the order passed by this Tribunal in O.A. 1395/2006 was clear and the respondents have violated the spirit of that order by not considering the bonafide claim of the applicants, for regularization in the North Central Railway. He points out that it is the Railways authorities themselves who had merged the cadres of typists and clerks and it is the respondents who had sought options for maintenance of lien and regularization in the North Central Railways pursuant to which the applicants had applied for and at this stage denying them their fair

claim is against the principles of equity and fair play as other similarly placed applicants have been suitably adjusted.

5. The learned counsel for the respondents points out that there is no vested right with the applicants to claim lien in the North Central Railway and they cannot claim this right on the basis of direction given by the Tribunal in the aforesaid OA.

6. We have heard the learned counsel for the respondents and also examined the records. In our view, it is a very small matter for a big organization like the Indian Railways; in any case the applicants are already in the service of the respondents and hence it is a legitimate expectation that their request for regularization in the North Central Railways would be appropriately considered. We appreciate the arguments put forth by the learned counsel for the respondents that they can be adjusted only against available vacancies and at present there are no vacant posts. However, we also cannot ignore the fact that the applicants were placed in the priority list and it is on account of an error committed by the respondents and not on account of any act of omission by the applicants that their names have subsequently been deleted.

7. Accordingly, this O.A. is disposed off with a direction to the respondents to absorb the applicants in the North Central Railways against either the available posts of Clerk cum typist or in the alternative by way of creation of supernumerary posts or by transferring the posts from elsewhere purely on personal basis for these two applicants.

8. The O.A. stands disposed off with the above directions which shall be complied with within a period of eight weeks from the date of receipt of certified copy of the order.

9. While regularizing the applicants in the North Central Railways, the respondents shall ensure that the seniority and the length of the service of the applicants are protected for all service benefits in accordance with rules.

10. There shall be no order as to costs.

11. Ms. Pratima K Gupta, Member (J) has consented to this order during virtual hearing.

**(Pratima K. Gupta)**

**Member (J)**

(Ritu Raj)

**(Tarun Shridhar)**

**Member (A)**

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**(Pratima K. Gupta)**

**Member (J)**

(Ritu Raj)

**(Tarun Shridhar)**

**Member (A)**