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(Bench No.1)

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

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Registration No. 179 of 1986

Abdul Hameedvs. Union of India and others.

Hon'ble S.Zaheer Hasan, Vice Chairman.

Hon'ble Ajay Johri, Member (A).

(Delivered by Hon'ble S.Zaheer Hasan, V.C.)

This is an application under Section 19 of the Administrative Tribunals Act (No. 13 of 1985), praying for a direction to the respondents to utilise and absorb the applicant on Running side and stay the operation of the order dated 5.4.1986 passed by the Loco Foreman, Running Shed, Northern Railway, Lucknow and D.R.M., Northern Railway Lucknow letter dated 2.4.1986. The applicant has further prayed that he may be continued to work ^{as} Second Fireman.

The applicant was put on panel as Khalasi in the year 1978; and, vide order dated 12.8.1980, the applicant was regularised as Khalasi and his position was shown in the list at serial No. 77. In this list he has been described as Fitter Khalasi. Though the applicant was a Khalasi, yet he was utilised as cleaner and fireman from time to time by the Loco Foreman inspite of the objection raised by the D.R.M's office. In this way from 30.9.1978 to 24.3.1986 the applicant worked as Cleaner/Fireman though he was selected and posted as a Fitter Khalasi. The contention of the applicant

22

is that he was appointed as Cleaner and Fireman from time to time; so, he cannot be reverted as Khalasi. According to the respondents the applicant was empanelled in 1978 and was regularised in 1980 as Khalasi and he was never appointed as Cleaner or Fireman. Simply because the applicant was utilised as Cleaner or Fireman it does not mean that he was appointed as Cleaner or Fireman.

From the above it would appear that the applicant was empanelled as Khalasi in 1978 and he was regularised and appointed as Khalasi in 1980. Though the applicant was appointed as Khalasi, yet he was utilised as Cleaner/Fireman from 30.9.1978 to 24.3.1986. There is no difference of pay in this regard. There is no order regarding the appointment of the applicant as Cleaner or Fireman. Simply because he was utilised as such, it does not mean that he was appointed as Cleaner or Fireman. This utilisation was irregular and it was against the directions given by the Divisional Railway Manager. In other words, the Foreman, Loco Shed was either showing favour or utilising the applicant as Fireman or Cleaner due to exigencies of service, ^{without a proper order} However, there was no order of appointment of applicant as Cleaner or Fireman. So, he has no legal claim to be appointed as Cleaner/Fireman. However, the administration may consider his case of absorption since he was being utilised as Cleaner from 30.9.1978 to 24.3.1986.

No other point was pressed before us.

The application is disposed of accordingly with no order as to costs.

Sept. 25, 1986.
R.Pr.

Vice Chairman.

अजय जहा
Member (A).