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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

(2)

Original Application No. 482 of 1988

Mohammed Shamsad

.... Petitioner

Versus

Union of India and Ors

.... Respondents

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

HON'BLE MISS. USHA SEN, MEMBER(A)

( By Hon. Mr. Justice R.K. Varma, V.C. )

This is a petition filed under Section 19 of the Administrative Tribunals Act 1985, whereby the petitioner has sought direction to the respondents to treat the petitioner as a temporary railway servant and to afford him all the rights and privileges including salary in the scale Rs.750-940 fixed at Rs.798/- per month with increments etc.

2. It is not disputed that the petitioner was initially appointed on 14.10.75 as Casual Labour by the respondents and he continued working in broken periods and on completion of 120 days acquired temporary status. On 14.1.85 the petitioner was absorbed as Substitute Khalasi against clear vacancy and continued to serve as Khalasi under the Signal Inspector, North Eastern Railway Pilibhit. But the respondents discontinued the employment of the petitioner on the post of Khalasi on the ground that no work of Khalasi existed at Pilibhit any more.

3. The respondents in their counter affidavit has stated that there was no further requirement of/

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Khalasi in the office of the Signal & Telecommunication Engineer, North Eastern Railway Izat Nagar ~~on~~ and after 30.6.87 and the petitioner alongwith similarly placed casual khalasis who were then working were directed to report to the Asstt. Engineer Fategarh and Pilibhit for further duty vide order dated 21.7.87. The respondents have alleged that the petitioner was directed to report to ~~to~~ <sup>Mr.</sup> A.E.N Pilibhit for further orders of their duties, but the petitioner did not report there.

3. The learned counsel for the petitioner has submitted that there was no allotment of duty to the petitioner made for Pilibhit. Learned counsel for the petitioner has referred ~~three~~ decisions of this Tribunal which were made in similar circumstances. These are O.A. No. 171/88 Krishanker Vs. D.R.M., N.E. Railway, Izat Nagar and others, decided on 24.7.92, O.A. No. 913/87 Ram Parvesh Rai Vs. Union of India and Ors decided on 23.7.92 and O.A. No. 912/87 Mohd. Shubah Vs. DRM, N.E. Railway, Izat Nagar and Ors decided on 17.5.93. In these decisions allowing the petitioner's application the respondents were directed to allocate the duties to the petitioners within a period of one month and that the petitioner was deemed to be continued in service, though without payment of back wages from the date he had not worked upto the period of one month from the date of the judgment. It was further directed that the question of the petitioner's absorption would also be considered in order of seniority when his

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turn comes and the respondents counsel has no objection in accepting that the present case is covered by the three judgments referred to above.

4. Accordingly, this petition is allowed. We direct the respondents to treat the petitioner ~~continuing~~ <sup>in</sup> ~~and~~ <sup>to</sup> service and allocate duty to the petitioner within a period of one month. The petitioner will however be not entitled to back wages for the period he was not working. The petitioner shall also be given <sup>an</sup> ~~the~~ benefit of regularisation, absorption etc as per his seniority.

5. There shall, however, be no order as to costs.

*U. B.*  
Member (A)

R. K. Varma  
Vice Chairman

Dated: April. 11<sup>th</sup> 1994

Uv/