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(Open Court) ⑤

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 22nd day of November, 1995

Original Application No. 961 of 1988

District : Allahabad

QUORUM:-

Hon'ble Mr. Justice B.C. Saksena, V.C.

Hon'ble Mr. S. Das Gupta, A.M.

Amar Nath son of Shri Bachcha Lal

Resident of 34, South Road, Allahabad.

(By Sri Satish Dwivedi) Advocate)

..... Applicant

versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Allahabad.
3. The Divisional Mechanical Engineer,
Northern Railway, Allahabad.
4. The Loco Foreman, Northern Railway,
Allahabad.

(By Shri NK Verma, Advocate)

..... Respondents

ORDER (Original)

By Hon'ble Mr. Justice B.C. Saksena, V.C.

The applicant seeks direction to be issued to the respondents to regularise his promotion on the post of Coal Checker. He has further prayed for a direction to the respondents to pay him the salary on the post of Coal Checker. In the OA the applicant alleges that

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he was promoted to officiate on the post of Coal Cheker w.e.f. 7-7-1982 and he has been continuing on the said post of Coal Checker. The applicant, however, states that the promotion order given to him has been misplaced and the fact can be verified from his service record and also from the ofitice record.

2. In the counter affidavit filed by the respondents, it has been indicated that the applicant was screened and empanelled for the post of Khalasi vide panel dated 15-3-1982 and he was accordingly appointed as Store Khalasi. Subsequently, he was promoted to Engine Time Checker w.e.f. 15-9-1983 and eversince then the applicant is continuing as Engine Time Checker and is being paid salary for the same regularly. It has been further averred in the counter affidavit that it is wholly incorrect to say that the applicant ever officiated as Coal Checker. In Paragraph No.7 of the counter affidavit, it has been stated, "He was never promoted as Coal Checker in the grade of Rs.260-400 and the alleged promotion order was never issued." The respondents state that the story that the order of promotion has been misplaced is pure concoction. The applicant has not filed any rejoinder affidavit to controvert the averments in the written statement. In view of the pleadings and controverted averments in the counter affidavit, we are not satisfied that the applicant at any time was promoted to the post of Coal Checker.

3. On record we find that Misc. Application No.163 of 1988 alongwith certain documents have been filed to show that the applicant had performed duties

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on the post of Coal Checker. Shri Lalji Sinha, holding brief for Shri NK Verma, Learned Counsel for the Respondents, however, stated before us that a copy of the said application is on his file and apparently it was served on the Learned Counsel for the Respondents though there is no endorsement as such on the Misc. Application. These documents show that the Applicant was issued a charge sheet and his designation indicated was Acting Coal Checker. In the statement of charges and allegations, which is a part of the charge sheet, the Learned Counsel for the Respondents points out that the applicant has been described as Act G/Ch (E.T.C.). The submission is that the word 'E.T.C.' stands for Engine Train Checker and, therefore, it has been submitted that the applicant has failed to prove that he has at any time worked as Coal Checker. The applicant has failed to indicate any specific period during which he worked on the post of Coal Checker. In the absence of specific facts it is difficult to grant any relief ^{Applicant} which the l has prayed as second relief. The first relief also cannot be granted since in view of the material on record, the applicant has failed to prove that he was promoted to the post of Coal Checker and thus no direction for being regularised on the said post can be given.

4. In view of the above, the OA deserves to be dismissed, and is accordingly dismissed. The parties shall bear their own costs.

HR
Member (A)

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Vice Chairman

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