

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 19th day of July, 2000.

CORAM : Hon'ble Mr. Rafiq Uddin, Member (J)

Hon'ble Mr. M.P. Singh, Member (A)

ORIGINAL APPLICATION NO. 1622 of 1992.

Suresh Chandra Tiwari S/o Sri Someshwar Nath Tiwari,
A/a 39 years R/o Village Narainpur,
Post Bashi, Tehsil Karchana,
District Allahabad.

...Applicant

C/A Shri Satish Dwivedi, Adv.

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railways,
Allahabad.

3. The Assistant Engineer,
Northern Railway,
Chunar.

4. The Permanent Way Inspector,
Northern Railway,
Churk.

...Respondents.

C/R Shri Jagannath Singh, Adv.

Shri P. Mathur, Adv.

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(By Hon'ble Mr. Rafiq Uddin, Member (J))

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 The applicant ~~comes~~ ^{came} up by means of this O.A.,
 has sought a direction to the respondents to post him
 as Khalasi and ~~paid~~ ^{paid} salary of the said post w.e.f. April,
 1992 regularly.

2. The case of the applicant is that after having been declared medically fit for the post of Khalasi he was posted as Khalasi on 09.08.1976. The applicant was transferred in the month of July 1977 on the post of Khalasi under P.W.I. Churk. The applicant also claims that in his service record his designation has been mentioned as Khalasi and he had been performing the duty as Khalasi upto 04.02.1992. However, vide order dated 30.01.1992 P.W.I. Churk (respondent No. 4) issued an order of transfer and posting of applicant on the post of Gangman in Gang No. 13 under respondent No. 4. The applicant claims that his designation has been wrongly mentioned as Gangman because he is working as a Khalasi. The applicant also stated that the post of Gangman is higher than the pay scale of the post of Khalasi. Hence an employee cannot be compelled to take the higher grade and promotion without his consent and applicant cannot be compelled to work as Gangman on the ^{hire - 2} action of the respondent which is unjustified and illegal.

3. The respondents have, however, denied the claim of the applicant and stated that w.e.f. 15.11.1983 he was posted as Gangman category being declared medically fit in B-zone category because the extra labour application (E.L.A.) of Khalasi was not accorded, ^{However,} the applicant has been

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working with Fitter (Lubrication) as helper upto 04.02.1992 till the date of his transfer as Gangman. Thus the respondents claim that since 15.01.1983 the applicant has been working in the grade of Rs. 200-250/- as Gangman and he was also given grading scale of Gangman i.e. 800-1150/- and still working in the same grade. The respondents have also claimed that the post of Khalasi being surplus and the same were transferred to permanent way as Gangman and there is no illegality because it has been done in accordance with rules and law.

4. We have heard parties counsel and perused the record.

5. The main contention of the learned counsel for the applicant is that the applicant was not informed or given a notice before changing his category from Khalasi to Gangman as claimed by the respondents. The respondents have also not disclosed the provision or rules or law under which the category of the applicant was changed. It is pointed out by the learned counsel for the applicant that a representation of the applicant is still pending with the A.E., N.R., Allahabad (respondent No. 3). Under the facts and circumstances of the case, therefore, we consider it desirable that the respondents should dispose of the representation of the applicant by speaking any reasoned order mentioning particular rule under which the category of the applicant has been changed from Khalasi to Gangman within a period of two months from the date of communication of this order. Applicant would submit

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an application alongwith a copy of representation
before the respondent No. 3 along with a copy
of the order.

M.R.S.
Member (A)

R.S. Naidu
Member (J)

/S.P./