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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 16<sup>th</sup> DAY OF APRIL, 1996

Original Application No.1248 of 1995

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR. D.S. BAWEJA, MEMBER (A)

Subhash Chandra Rai, son of  
Sri Bhagwati Prasad Rai,  
R/o village Barhehta, Post  
Pharsar(Barhalganj), District  
Gorakhpur.

Applicant

BY ADVOCATE SHRI R.C. SINGH

Versus

1. The Union of India through  
the General Manager, N.E. Railway  
Gorakhpur.
2. The Chief Personnel Officer,  
N.E. Railway, Gorakhpur

Respondents

BY ADVOCATE SHRI PRASHANT MATHUR

O R D E R (reserved)

JUSTICE B.C.SAKSENA,V.C.

We have heard the learned counsel for the applicant when the OA came up for order as regards admission. The facts in short are that the applicant had submitted his candidature for being recruited for the post of Assistant Station Master to the N.E. railway, Gorakhpur in response to the Employment Exchange requisition which was published by the said Board. The applicant was selected and recommended for recruitment as Asstt. Station Master. Before the appointment letter could be issued the applicant was given a letter dated 15.9.92 by the Chief Personnel Officer with Police verification form and the applicant

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was required to submit the police verification form by 30.9.92. The police verification indicated that the applicant had been convicted by the IVth Sessions Judge Gorakhpur in Session Trial No. 379/84 and convicted for having committed offences punishable u/s 147/323/140/307/149 and 148 I.P.C. On an appeal filed before the High Court notice was issued on the said appeal and the applicant was directed to be enlarged on bail. It was also provided that the execution of the impugned order was remained suspended.

2. The applicant filed OA 1296/93 and an interim order was passed which provided that the applicant may be provisionally be sent for training within the second Batch but it was clarified that it would not give any right to the applicant for appointment. The applicant would not being sent for the training he filed contempt petition No. 1792/93. Notices were issued and it was directed that the petitioner had not been sent for training in second batch he shall be sent for training in the next batch. The applicant was accordingly sent for training provisionally and he alleges that he had successfully completed the same. The OA 1296/93 came up for final hearing in July 93. A detailed order was passed considering the relevant pleas raised by the applicant, copy of the said order is Annexure A-8. The Division Bench held:

" For the above reasons, the denial of the appointment to the applicant on the ground of his conviction by Sessions court for the offences Under sections 147, 323/149, 307/149 and 148 I.P.C cannot be faulted and as such no direction as prayed for can be

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can be

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issued. This order shall not however, debar the respondents to call upon the applicant to explain as to why he should not denied the appointment on account of his conviction on criminal charges and decide the question of the applicant's appointment after arriving at a decision whether the conduct of the applicant leading to his conviction is such that he should not be appointed."

3. The applicant preferred an application on 24.8.95 before the General Manager(Karmik) North Eastern Railway Gorakhpur. on a consideration of the said representation the order dated 20.10.95 has been passed which was communicated to the applicant and has been filed as Annexure A-10. The said order indicates that the Competent Authority after consideration of the representation in the light of the decision given in the earlier OA does not find any good reason to appoint the applicant. That order has been challenged.

4. The learned counsel for the applicant urged the very same grounds which appeared to have been urged before the court when the earlier OA came up for final hearing. The contentions advanced have been duly discussed in the said order passed in the earlier OA. The second OA for the same cause of action for the same relief is clearly barred by resjudicata.

5. The O.A. lacks merit and is, therefore, dismissed summarily.

MEMBER(A)

Dated: April. 16<sup>th</sup> 1996

VICE CHAIRMAN