

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

....

Original Application No. 1062 of 1999

this the 9th day of May'2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

1. Raghuvir Singh, S/o Sri Dehru Lal, Railway Qr. No. 109-D New Railway Colony, N.E.R., Mathura Cantt.
2. Jaipal Singh, S/o Sri Mini Lal, C/o Sri Nirotam, R/o Hathikhana, P.O. Hathras, District Hathras.

Applicants.

By Advocate : Sri Rakesh Verma.

Versus.

1. Union of India through G.M., N.E.R., Gorakhpur.
2. Sr. Divisional Personnel Officer, N.E.R., Izatnagar, District Bareilly.
3. Sr. Divisional Engineer-III, N.E.R., Izatnagar, District Bareilly.
4. Asstt. Engineer, N.E.R., Mathura Cantt.

Respondents.

By Advocate : Sri V.K. Goel.

O R D E R (ORAL)

The applicants have filed this O.A. for setting aside the order dated 19.7.1999 passed by the Asstt. Engineer, N.E.R., Mathura Cantt (respondent no.4), and for issuing directions to Sr. Divisional personnel Officer, N.E.R., Izatnagar District Bareilly (respondent no.2) to permit the applicants to continue to work as Khalasi at their respective place of posting.

2. There is no dispute that the applicant no.1 namely

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Raghuvir Singh joined as casual labour in the year 1973, whereas the applicant no.2 namely Jaipal Singh also joined as casual labour in the year 1979. The case of the applicants is that they were eventually regularised in service as Khalasi after proper screening in the pay-scale of Rs. 2550-3200 at Mathura vide order dated 30.12.97 (Annexure-1). The grievance of the applicant is that by the impugned order dated 19.7.99, the applicants have been posted as Gangman in the pay-scale of Rs.2610-3540. According to the applicants, after regularisation as Khalasi vide order dated 30.12.97, they are entitled to work in the said capacity alone and the respondents are not legally justified to change their nature of work .

3. I have heard the learned counsel for the parties and have also gone through the pleadings on record.

4. The learned counsel for the respondents has, on the other hand, contended before me that the applicants were appointed on casual basis as Khalasi against work charge basis in the grade of Rs. 2550-3200/- vide order dated 30.12.97. It is further stated that after screening of the applicants, who were working with temporary status as casual Khalasi against work charge post, have been regularised and posted as Gangman in the pay-scale of Rs.2610-3540/- vide order dated 30.12.97 against the available vacancy of Gangman.

5. The controversy in the present case is that whether the order dated 30.12.97 (Annexure-2) is an order of regularisation of the applicants as Khalasi or it is merely their appointment as casual Khalasi against work charge post. On perusal of the order, I find that against 121 Group 'D' posts, the names of only 119 Time Scale Casual Labourers including the names of the applicants were approved for their appointments in the pay-scale of

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Rs. 2550-3200/-. It was clearly mentioned in this order that the appointment is being made against the work charge post. However, in the impugned order dated 19.7.99<sup>R</sup>, it is noticed that working work charge casual labour including the applicants were posted in the pay-scale of Rs. 2610-3540/- as Gangman and their services were to be governed by the rules applicable to the employees of Group 'D' post. It is, thus, clear that by the impugned order the employees already working against work charge post have been regularised and posted as Gangman in the higher pay-scale.

6. I agree with the contention of the learned counsel for the respondents that earlier order dated 30.12.97 was made <sup>R in respect of</sup> ~~to the~~ applicants alongwith other persons, who were posted against work charge post and it was not an order of regularisation against Group 'D' post as Khalasi. It has clearly been stated in the Counter that the impugned order dated 19.7.99 was passed only after screening of the persons including the applicant for their regularisation against Group 'D' post. Therefore, the appointment of the applicants as Gangman after screening against Group 'D' post cannot be said to be irregular or illegal and the same is not liable to be quashed.

7. However, during the course of the arguments, the learned counsel for the applicant has brought to my notice a representation dated 26.7.99 (Annexure-3) which was filed by the applicants in which the applicants had requested that they are unable to work as Gangman and they should be accommodated against the vacancies of work charge post in future as Khalasi and has submitted that directions may be issued to the competent authority to consider the request of the applicants and to pass appropriate orders as per rules.

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8. The claim of the applicant for quashing of the impugned order dated 19.7.99 is rejected. However, direction is issued to the competent authority to consider and pass appropriate orders on the representation dated 26.7.99 submitted by the applicants within a period of three months from the date of communication of this order. The O.A. stands disposed of as above without any order as to costs.

*Rafiquddin*  
MEMBER (J)

GIRISH/-