

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 351 of 2000

ALLahabad this the 28th day of September, 2004

Hon'ble Mr. Justice S.R. Singh, V.C.  
Hon'ble Mrs. Roli Srivastava, Member(A)

Mahmood Alam Ansari, Khalasi, presently working as  
Booking Clerk, Under Loco Foreman, Eastern Railway,  
Mugal Sarai, District Chandauli.

Applicant

By Advocate S. Hasnain

Versus

1. The Union of India through General Manager,  
Eastern Railway, Calcutta.
2. The Divisional Railway Manager, Eastern Railway,  
Mugal Sarai Division, Mugal Sarai.
3. The Divisional Technical Engineer (Power) Eastern  
Railway, Mugal Sarai.
4. The Loco Foreman, Eastern Railway, Mugal Sarai.

Respondents

By Advocate Shri A.V. Srivastava

ORDER( Oral )

By Hon'ble Mr. Justice S.R. Singh, V.C.

The applicant seeks following reliefs :-


"8.1

This Hon'ble Tribunal may graciously be pleased  
to promote the applicant to the post of Booking  
Clerk.

8.2

This Hon'ble Tribunal may graciously be pleased

..pg.2/-





to treat the applicant as Booking Clerk since 27.3.1991 and to pay the arrears of his salary of Booking Clerk with other consequential benefits.

8.3

This Hon'ble Tribunal may graciously be pleased to direct the respondents to include the same of the applicants to casual Labour Live Register of the Units where they have worked.

8.4

Any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case be issued in favour of the applicant.

8.5

Cost of the application may be awarded in favour of the applicant. "


2. The applicant who holds his lien on the post of Khalasi has instituted this O.A. under Section 19 of the Administrative Tribunals Act, 1985 for the reliefs extracted above on the premises that he has been working and discharging work of the Booking Clerk since 04.06.1991 under the oral orders of superior officers and yet has not been paid the salary and emoluments admissible to the post of Booking Clerk. The submissions made by counsel for the respondents is that the applicant is not entitled to be promoted to the post of Booking Clerk merely on the ground that he has been performing and discharging the duties attached to the post. It is submitted by the counsel for the respondents that for the purpose of promotion, all the employees within the zone of consideration, are to be considered and then only promotion can be made in accordance with the rules. It is submitted that the applicant <sup>& has & been &</sup> ~~is not even being~~ promoted <sup>& even &</sup> to the post of Helper Khalasi - a post in between the post of Booking Clerk and Khalasi and, therefore, the applicant




cannot straight away claim<sup>2</sup>~~ed~~ a right of promotion to the post of Booking Clerk.

3. Having heard the counsel for the parties, we are of the considered view that while the applicant cannot seek issuance of an order or direction commanding<sup>d</sup> the respondents to promote him to the post of Booking Clerk, it would be just and proper to direct the respondents to consider the applicant's claim for salary and other emoluments admissible to the post of Booking Clerk on the basis<sup>3</sup>~~of~~ that he has been performing the duties of Booking Clerk even since 04.06.1991. For this purpose, the applicant may file representation which will be considered and disposed of by the competent authority in accordance with law.

4. Accordingly the O.A. is disposed of finally with direction that in case applicant files a representation, the competent authority shall consider and dispose of the applicant's claim for salary and other emoluments admissible to the post of Booking Clerk for the period he has been working on the post, and take appropriate decision in accordance with law within a period of 3 months from the date of receipt of a copy of this order alongwith copy of representation. No order as to cost.

  
Member (A)

  
Vice Chairman

/M.M./