

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

ORIGINAL APPLICATION NO. 248 of 2002.

ALLAHABAD THIS THE 09TH DAY OF JANUARY 2009.

Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mr. S.N Shukla, Member (A)

Malik Haffiz Uddin, a/a 54 years, son of late Bashir Uddin R/o 406 (F) Railway Colony, Nawab Yusuf Road, Allahabad.

.....Applicant

By Advocate: Shri V. Budhwar/Shri S.K. Mishra

Versus.

1. Divisional Railway Manager, Northern Railway, Allahabad.
2. Senior Divisional Personnel Officer, Northern Railway, Allahabad.
3. Divisional Superintending Engineer, Northern Railway, D.R.M Office, Allahabad.
4. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.

.....Respondents

By Advocate: Shri S.K. Shukla

ORDER

Delivered by Justice A.K. Yog, Member (J)

Heard Shri V. Budhwar, Advocate appearing on behalf of the applicant and Shri S.K. Shukla, Advocate appearing on behalf of the respondents. Perused the pleadings in the O.A. and documents attached thereto.

2. By means of this O.A., applicant seeks to challenge order dated 26.2.2001/Annexure 1 to the O.A. By means of which, respondents Authorities have rejected the claim of the applicant regarding arrears/emoluments and other consequential benefit on the basis of alleged promotion on different post from time to time name as Office Clerk, Senior Clerk and Head Clerk etc. By means of impugned order in question some decision vide earlier order dated 15.11.2000 and 20.02.2001, applicant has not challenged. In view of it, O.A. can be rejected on this ground alone.

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3. However, in the ends of justice, we ~~e~~ permitted the learned counsel for the applicant to satisfy us regarding infirmity in the impugned order in question (referred to above).

4. It has come on record that applicant and 3 others have earlier approached Labour Court by filing Misc. Application No. 39 of 1982 under section 33-C (2) of the Industrial Disputes Act, 1947. Said case has been decided by means of order dated 7.11.1984/Annexure 2 to the O.A. Perusal of this order shows that applicant was paid 75% of pay scale admissible to the post of Khalasi. The order further says that applicant was confirmed and he was required to work at different places and he started getting regular scale applicable to the post of Khalasi. Further perusal of order shows that applicant claimed salary to the post of Storeman on the basis of their promotion for the post of Khalasi. It appears that applicant had worked on adhoc basis for Storeman during the period from 16.1.1981 to 30.4.1982. Labour Court, however, required the applicant to submit clear and categorical calculation obtained to indicate the arrears claimed by them. Learned counsel for the applicant stated that said order of the Labour Court dated 7.11.1984 was challenged before this Tribunal by filing O.A. NO. 1049 of 1991 (Union of India Vs. Mullick Hafizuddin and others), which was dismissed on the ground that Court had no jurisdiction vide final order dated 30.5.1997. Respondents has filed writ petition bearing No. 18674 of 2000 in the Allahabad High Court, which was also dismissed on 19.4.2000.

5. It appears that applicant had also approached respondents by filing representation and when same was not decided, the applicant filed writ petition NO. 18674 of 2000- Malik Haffiz Uddin Vs. Union of India and 3 others. Said writ petition was also disposed of vide order dated 19.4.2000 with the direction that applicant to file representation and same to

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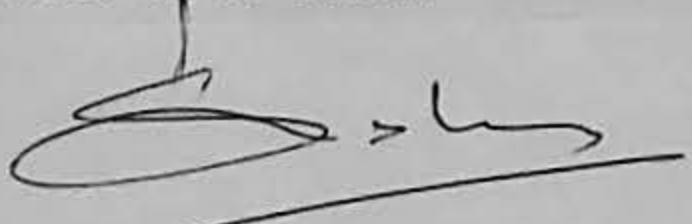
be decided within 1 month (on terms and condition contained in the said order)/Annexure 9 to the O.A.

6. According to the applicant, his representation was in the background of the direction given by the High Court vide order dated 19.4.2000, has been rejected by means of impugned order dated 26.2.2001/AnnexureA-1 to the O.A. (referred to above).

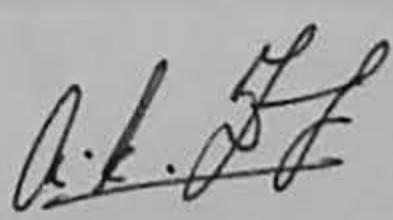
7. We are not satisfied, on basis of the pleadings before us, that impugned order suffers from any 'illegality'. However, without entering into merit of the impugned order at this stage, we are of the opinion that in case applicant was aggrieved regarding arrears of emolument on the basis of his promotion to the Higher post (indicated), he should approach Industrial Tribunal itself for redressal of his grievance, if any. ^{or not for} He can ~~not~~ be permitted to pursue remedy simultaneously before two different forums.

8. In view of above, O.A. is, accordingly, dismissed. It is made clear that applicant may pursue his remedy if available under law before appropriate forum.

9. No order as to costs.



Member (A)



Member (J)

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