OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No. 460 of 2002.

Allahabad this the 03th day of February, 2004.

Hon'ble Mr. Justice S.R. Singh Vice- Chairman.
Hon'ble Mr. D.R. Tiwari, Member-A.

Vinod Kumar Azad
son of Shri Indradev Prasad Yadav
Ex-Khalasi,
R/o Quarter No.85-A, B Loco Colony,
Mugalsarai, Chandauli.

.....Applicant.

Versus.

1. Union of India
through General Manager,
Eastern Railway Calcutta now Kolkatta.

2. Senior Divisional Signal & Telecom Engineer,
Eastern Railway Mughalsarai,
Chandauli.

3. The Divisional Signal & Telecom Engineer/MW/
Mughalsarai, Chandauli.

4. The Chief Personnel Officer,
Eastern Railway, Calcutta,
Now Kolkatta.

.....Respondents.

ALONGWITH

Original Application No.466 of 2002.

Pravin Sharma
son of Shri S.N. Sharma
Ex-Khalasi
R/o C/o Rakesh Vishwakarma,
Q. No.901 CD, Shastri Colony,
Mugalsarai, Chandauli.

.....Applicant.

Versus.

1. Union of India
through General Manager,
Eastern Railway Calcutta now Kolkatta,

2. Senior Divisional Signal & Telecom Engineer,
Eastern Railway Mughalsarai, Chandauli.

2. The Divisional Signal & Telecom Engineer/MW/
Mughalsarai, Chandauli.

4. The Chief Personnel Officer,
Eastern Railway Calcutta now Kolkatta.

.....Respondents.

ALONGWITH

Original Application No.467 of 2002.

Jai Kumar
son of Shri Chandradeep Sharma
Ex- Khalasi
R/o 11/60, B-29, Krishna Colony (Ranipur)
Mahmoorganj, Varanasi.

.....Applicant.

Versus.

1. Union of India
through General Manager, Eastern Railway
Calcutta now Kolkatta.

2. Senior Divisional Signal & Telecom Engineer,
Eastern Railway, Mughalsarai, Chandauli.

3. The Divisional Signal & Telecom Engineer/ Mw/
Mughalsarai, Chandauli.

4. The Chief Personnel Officer,
Eastern Railway Calcutta now Kolkatta.

.....Respondents.

ALONGWITH

Original Application No.465 of 2002.

Ravindra Giri
son of Shri Ranjit Giri ,
Ex- Khalasi
R/o Village Kharauli, P.O. Shivrampur,
Kaimur (Bhabhua)

.....Applicant.

Versus.

1. Union of India,
through General Manager,
Eastern Railway Calcutta now Kolkatta.

2. Senior Divisional Signal & Telecom Engineer,
Eastern Railway Mughalsarai, Chandauli.

3. The Divisional Signal & Telecom Engineer/Mw/
Mughalsarai, Chandauli.

4. The Chief Personnel Officer,
Eastern Railway, Calcutta now Kolkatta.

.....Respondents.

ALONGWITH

Original Application No.463 of 2002

Nagina Giri,
son of Shri Ranjit Giri
Ex- Khalasi
R/o Village Kharauli, PO Shivrampur
Kaimur (Bhabhua)

.....Applicant

Versus.

1. Union of India
through General Manager
Eastern Railway Calcutta now Kolkatta.

2. Senior Divisional Signal & Telecom Engineer,
Eastern Railway Mughalsarai, Chandauli.

3. The Divisional Signal & Telecom Engineer/MW/
Mughalsarai, Chandauli.

4. The Chief Personnel Officer, Eastern Railway
Calcutta now Kolkatta.

.....Respondents.

ALONGWITH

Original Application No.461 of 2002.

Sanjay Kumar Tiwari
U/JE/T/M.W/S.S.M.
son of Shri Ambika Tiwari,
Ex-Khalasi.
R/o Lot No.2, House No.169, Near Pani ke Tanki
Mugalsarai, Chandauli.

.....Applicant.

Versus.

1. Union of India,
through General Manager,
Eastern Railway, Calcutta now Kolkatta.

2. Senior Divisional Signal & Telecom Engineer,
Eastern Railway Mughalsarai, Chandauli.

3. The Divisional Signal & Telecom Engineer/MW/
Mughalsarai, Chandauli.

4. The Chief Personnel Officer,
Eastern Railway Calcutta now Kolkatta.

.....Respondents.

ALONGWITH

Original Application No.462 of 2002

Subhash Paswan
son of Late Shri Mukhram Paswan,
Ex-Khalasi
R/o Alinagar (New Basti)
Mugalsarai, Chandauli.

.....Applicant.

Versus.

1. Union of India
through General Manager,
Eastern Railway Calcutta now Kolkatta.

2. Senior Divisional Signal & Telecom Engineer,
Eastern Railway, Mughalsarai, Chandauli.

3. The Divisional Signal & Telecom Engineer/MW/ Mughalsarai, Chandauli.

4. The Chief Personnel Officer, Eastern Railway Calcutta now Kolkatta.

.....Respondents.

ALONGWITH

Original Application No.464 of 2002.

Dhirendra Kumar Upadhyaya
son of Shri Shambhu Upadhaya,
Ex- Khalasi
R/o Parashuram Pur, Sikatya Railway Gate,
Mugalsarai, Chandauli.

.....Applicant.

(By Advocates: Shri V Budhwar)

Versus.

1. Union of India, through General Manager, Eastern Railway Calcutta now Kolkatta.

2. Senior Divisional Signal & Telecom Engineer, Eastern Railway, Mughalsarai, Chandauli.

3. The Divisional Signal & Telecom Engineer/MW/ Mughalsarai, Chandauli.

4. The Chief Personnel Officer, Eastern Railway, Calcutta now Kolkatta.

.....Respondents.

(By Advocate : Sri K.P. Singh)

O R D E R

(By Hon'ble Mr. Justice S.R. Singh)

Heard Shri S.C. Budhwar Senior Counsel assisted by Shri Vikas Budhwar learned counsel for the applicant and Shri K.P. Singh learned standing counsel representing for the respondents and perused the pleadings.

2. All these eight O.As arise out of identical facts and with the consent of counsel appearing for the parties they were connected together for disposal by a common order.

3. Identically worded charge memos were served

to the individual applicants in these connected O.As. The articles of charges as enumerated in O.A No.460/02, V.K. Azad Vs. Union of India and Ors. are reproduced below:-

Article-I

"Sri Vinod Kumar Azad has produced fake and false office order for initial appointment in Railways violating instructions for appointment in Rlys.

Article-II

Sri Vinod Kumar Azad has acted as unbecoming of a Railway Servant and contravened the D & A service conduct Rules under Rule 3 (i), i, ii) & iii) of 1966".

It would appear that by office order No.E.740/2/01.IV/Spl Apptt. Calcutta dated 25.01.1999 which purports to have been issued by the Assistant Personnel Officer (E) of Eastern Railway, the applicants were appointed in Group 'D' category on the pay of Rs.2550/- per month in scale of Rs.2550-3200 (RP) and posted under DSTE/MW/MGS Eastern Railway with immediate effect. On an enquiry, however, it was found, vide enquiry report (Annexure No.16), that the said office order of appointment was fake. Relying upon the said enquiry report, show cause notices were issued to the applicants and after considering the reply submitted by individual, the Disciplinary Authority passed an order of removal from service on 01.03.2001. Appeals preferred against the said order came to be rejected vide order dated 19.03.2001. Aggrieved by the same, the instant O.As have been instituted by the aggrieved individual applicants.

4. Learned counsel for the applicant has submitted that there was no evidence in support of the charge that the appointment order was produced by the individual applicant nor was there any evidence to prove that the order pursuant to which the applicants were appointed, was a fake and forged document. Shri K.P. Singh learned

counsel for the respondents, on the other hand, submits that no procedure for appointment on compassionate ground was at all under-taken and no appointment order was issued by the Competent Authority. The so called office order, pursuant to which the applicants were appointed, was a forged and fake document. It is further submitted by the respondent's counsel that initially, on the basis of fake order dated 25.01.1999, the eight applicants herein were appointed and thereafter another office order No.E.743/5/Cl. IV/Spl. Apptt. Calcutta dated 29.09.2000 was received in the office of respondent No.3. A doubt arose on the genuineness of the said order whereupon the Competent Authority passed the following order:-

> "PL Verify genuineness of this order from HQ & also verify all previous orders of direct appointment to this office".

Chief Personnel Officer, by letter dated 16.11.2000 informed the D.S.T.E. (MW), Eastern Railway, Mughalsarai that the letters enclosed with letter dated 07.11.2000 were fake and considering seriousness of the matter it was ordered that:-

> "(a) Where appointment has not been given, an F.I.R. should be lodged to nearest police station.
>
> (b) In respect of the 8 persons who have already been given employment against the fake office order No.E.740/2/01.IV/Spl. Apptt. dated 25.01.1999 should be suspended forthwith. Simultaneously, major penalty charge Sheet may also be issued to these 8 persons as per provision under D&A Rules".

It was pursuant to the aforesaid direction that the charge memo was issued and enquiry officer found that the office order on the basis of which the eight applicants herein were appointed as a fake one. It is true that no evidence was led to the effect that the office order on the basis of which the applicants were appointed was, in fact, produced by them but it is proved that the applicants got

the appointment on the basis of a forged office order. The applicants being beneficiaries of the objectionable office order, it could be presumed that they had managed to dispatch the letter to the concerned authority which led to their appointments. The Tribunal cannot sit in appeal over the finding recorded by the Enquiry Officer and accepted by the Disciplinary Authority that the office order dated 25.01.1999 was fake and forged. It is not of much relevance that the Competent Authority should have cancelled the appointment instead of drawing the proceeding for major penalty under rule 14 of the CCS (CCA) Rules, 1965.

5. It has been then submitted that the second charge that the conduct of the applicants was unbecoming, cannot be said to have been established for the reason that it refers to a conduct before joining the service. We are not impressed by the submission made by the learned counsel for the conduct was such as could render the applicants disqualified for Government service. Under these circumstances, we do not find it a fit case for interference by the Tribunal.

6. The O.As are devoid of meri and are dismissed.

No order as to costs.

Sd.

Sd.
VC.

12/2/04