

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD, BENCH, ALLAHABAD.

Original Application No. 941/02.

Allahabad this the 12th day of November, 2002.

Hon'ble Maj Gen KK Srivastava, Member-A  
Hon'ble Mr. A.K. Bhatnagar, Member-J.

Om Veer Sagar  
s/o Late Sri Devi Prasad  
r/o Q. No. 298-B, New Railway Colony,  
Tundla, District Firozabad.

.....Applicant.

(By Advocate : Sri A Rajendra)

Versus.

1. The Union of India,  
through General Manager (P),  
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, DRM Office, South Road,  
Allahabad.
3. The Senior Divisional Operating Manager,  
Northern Railway, DRM Office, South Road,  
Allahabad.

.....Respondents.

(By Advocate : Sri A.K. Pandey)

ORDER (Oral)

BY HON'BLE MAJ GEN KK SRIVASTAVA, A.M.

This O.A., has been filed under section 19  
of Administrative Tribunals Act, 1985. The applicant has  
prayed that the order dated 19.08.2002 be quashed.

2. The facts, in short, are that the applicant was  
appointed as Assistant Station Master (in short A.S.M)  
Tundla on 13.01.1988. The options were called for from  
A.S.M and Guards to work as Section Controller pay scale  
of Rs.1400-2600/-. The applicant was posted as ~~Adhoc~~ <sup>ad hoc</sup> Section Controller at Tundla on 15.05.1999, after interview

and screening were done. Applicant has admittedly worked on the post of Section Controller, Tundla on ad-hoc basis since 15.05.1999. As per the applicant, he worked continuously till 11.10.2002. This fact has been disputed by the respondents' counsel who submitted that in between he was utilized on his original post. However, in our opinion, this fact will not be of much relevance at this stage. By order dated 19.08.2002, the respondent No. 3 has directed Chief Controller, Tundla not to utilise A.S.Ms/Guards as Section Controllers and also that they should be immediately withdrawn to avoid court cases/legal complications at a later stage. Aggrieved by this order, the applicant has filed this O.A., which has been contested by the respondents.

3. Sri A, Rajendra, counsel for the applicant submitted that the reason for which the impugned order has been issued by respondent No.3 is arbitrary and illegal. <sup>h</sup> Mere fear of legal complications, does not give right to the respondents to take an arbitrary decision that A.S.Ms/Guards working as Section Controllers should be withdrawn. The applicant has been working for the last more than 3 years as Section Controller and reverting the applicant from the post of Section Controller, is irregular and illegal. This Tribunal by order dated 26.08.2002, ordered for status quo to be maintained. However, this order was vacated on 30.09.02, on the submission of the respondent's counsel that the applicant has already failed 2 times in the selection for section Controller. The applicant's counsel submitted that since the order of status quo was existing, it was proper that the applicant was continued on the post of Section Controller till the out-come of the next selection, which is going to be held in this month rather than approaching this Tribunal for vacation of stay order <sup>h</sup> and reverting the applicant.



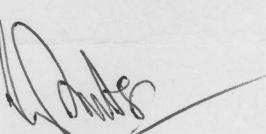
4. Sri A.K. Pandey, counsel for the respondents submitted that since the applicant failed twice in this selection and the post of Section Controller being a selection post, no illegality has been committed by the respondents. However, since the applicant has applied for selection, which is going to be held in this month, the entire controversy will be over after the selection process is completed.

5. We have heard the counsel for parties, considered their submissions and perused records. It is an admitted fact that the post of Section Controller is a selection post and any one who aspires to work on that post has to clear the selection. The applicant has not disputed the fact that he has failed in the selection twice. Therefore he has no valid reason to ask for non-reversion. <sup>Since</sup> ~~the~~ applicant is going to participate in the selection to be held this month as confirmed by applicant's counsel, We do not find any good ground to intervene. The O.A. is devoid of merits and is liable to be dismissed.

6. In the fact and circumstances the O.A. is dismissed being devoid of merits.

No order as to costs.

  
Member-J

  
Member-A

Manish/-