

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1184 OF 2002
ALLAHABAD THIS THE 25TH DAY OF NOVEMBER, 2003

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN
HON'BLE MR. D. R. TIWARI, MEMBER-A

Jaipal Singh,
son of Late Shri Mehi Lal,
aged about 44 years,
r/o Village Sehore,
Post Sehore,
District-Aligarh. Applicant
(By Advocate Shri Saumitra Singh)

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Versus

1. Union of India,
through the General Manager,
North Eastern Railway,
Gorakhpur.
2. Senior Divisional Personnel Officer,
N.E.R., Izatnagar,
Distt-Bareilly.
3. Senior Divisional Engineer II,
N.E.R. Izatnagar,
Distt. Bareilly.
4. Assistant Divisional Engineer N.E.R.,
Mathura Cantt.,
Mathura-281001, U.P.
5. Senior Section Engineer (Works),
N.E.R. Hathras City,
Distt. Hathras.
6. Shri Shyam Lal,
son of Shri Nand Ram Khalasi,
under Senior Section Engineer (Works),
N.E.R., Mathura Cantt,

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Mathura.

7. Shri Raj Kumar,
son of Shri Damber Khalasi,
under Section Engineer (Works),
N.E.R. Eastern Railway,
Cantt. Mathura-281001. Respondents

(By Advocate Shri Anil Kumar)

ORDER

HON'BLE MR. JUSTICE S. R. SINGH, VICE, CHAIRMAN

The applicant herein was appointed as Casual Labour in the year 1979. Subsequently it appears that by order dated 30.12.1997, he was appointed on casual basis as Khalasi in the grade of Rs2550-3200/-. By order dated 19.07.1999, the applicant alongwith others were regularised and posted as Gangman in the pay scale of Rs2610-3540/-. The applicant and one Shri Raghuvir Singh challenged the said order in O.A. No.1062/99. The Tribunal by its judgment dated 09.05.2002 (Annexure A-5) held that the order dated 19.07.1999 was passed only after the 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, it was held, could not be said to be irregular or illegal so as to be liable to be quashed. The claim of the applicant for quashing of the order dated 19.07.1999 was specifically rejected by the Tribunal vide judgment dated 09.05.2002 (Annexure A-5). However, having regard to the contention purport by the applicants therein that they had preferred representation requesting that they be allowed to work as Khalasi since they were unable to work as Gangmen due to age factor-work of Gangman being odious. The Tribunal directed the competent authority to consider the request of the applicant and to pass appropriate orders as per rules.

Q&Y

2. By order dated 20.06.2002 which is the subject matter of impugnment in this O.A., the representation of the applicant come to be rejected for the Senior Divisional Engineer II Izatnagar did not find any ground to modify the order dated 19.07.1999. Specific finding has been recorded in paragraph 5 of the order that the applicant was medically found fit in category A-III. The view taken by the authority, in our opinion, does not call for interference by the Tribunal.

3. Shri S. Singh, learned counsel appearing for the applicant then tried to raise the question regarding legality of the order dated 19.07.1999 which was the subject matter of challenge in the earlier O.A. We are, however, of the view that in view of the findings recorded by the Tribunal in its judgment dated 09.05.2002 in O.A. No.1062/99, it is not feasible for us to go into the legality of the order dated 09.05.2002 which was held to be valid by the Tribunal in the said case and if aggrieved, the applicant ought to have challenged the judgment of the Tribunal passed in earlier O.A. at appropriate forum.

4. The circumstances, therefore, the O.A. fails and dismissed and, however, make no order as to costs.

Deva
Member-A

Ran
Vice-Chairman

/Neelam/