

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

This the 2 day of 7, 2009.

HON'BLE MR. A. K. GAUR, MEMBER (J)
HON'BLE MRS. MANJULIKA GAUTAM MEMBER (A)

ORIGINAL APPLICATION NO. 1387 OF 2003

Shri Prakash Singh S/o Sri Hans nath Singh, R/o AT 1011,
Avas Vikas Colony Mahadev Jharkhandi Kudaghat, Gorakhpur,
at present working in Binding Section Railway Press,
Gorakhpur.

.....Applicant

VERSUS

1. Union of Inida through General Manager, N.E.
Railway, Gorakhpur.
2. Deputy Chief Signaland Tele-Communication Engineer
construction/East/Gorakhpur.
3. General Manager, Northern-Eastern, Railway, Gorakhpur.

.....Respondents

Present for the Applicant: Sri Rakesh. Verma
Present for the Respondents: Sri Avinish Tripathi

ORDER

BY HON'BLE MR. A.K. GAUR, Member (J).

By means of this Original Application the applicant has
claimed following main relief/s.

- "(i). Issue, an order quashing the impugned order
dt. 21.08.2003 passed by respondent No. 3,
General manager, Northern Eastern Railway,
Gorakhpur (Annexure-1).
 - (ii). Issue, order or direction to the respondent
particularly respondents no. 2 & 3 to fix salary of
the applicant in the higher scale alike the persons
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mentioned in Annexure no. 2 from time to time and pay difference of salary in lieu of arrears alongwith interest at the rate of 12% per anum and onwards month to month in accordance with law.

(iii). Issue, order or direction commanding the respondents to fix salary of the applicant in grade IInd alike the persons named in the order dt. 20/21.7.1998 from due date and pay the difference of salary in lieu of arrear onwards month to month.

2. While working as Khalasi in the office of the Section Engineer (Construction) North Eastern Railway, Gorakhpur, the applicant was, subsequently transferred to the binding section Railway Press, Gorakhpur, Options were sought from Khalasis i.e. Group 'D' staff for their transfer from the office of Section Engineer (Construction) to the office of Chief works Manager (Work Shop North Eastern Railway). It is alleged, that the applicant as well as several other Khalasis, who were junior to the applicant submitted their option for such transfer before the Respondent No. 1 but, to the utter surprise of the applicant, by order dated 20/21.07.1998 the option submitted by 24 Khalasi, was accepted by the Competent Authority. The Grievance of the applicant is that the respondents have ignored the option of the applicant and accepted the option of persons junior to him a copy of order dated 20/21.07.1998 has been filed as Annexure-2 to the application. The applicant submitted an application on 28.08.1998 and made a request for transfer to workshop alike 24 Khalasis. According to the applicant the Respondent No. 1 did not pass any order on his application and the applicant could not be transferred to the office of the

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Chief Works Manager Signal work-shop, North Eastern, Railway, Gorakhpur.

3. In the Counter reply filed by the respondents it is submitted that the applicant was appointed as Casual Khalasi on 13.10.1978 in construction Unit, after being regularised in Group 'D' the applicant was spared on 27.12.2000 for joining the open line, in the office of the Deputy Chief Signal and Telecommunication, Signal, North Eastern Railway, Gorakhpur. According to the respondents, options were invited upto 30.04.1998 from Khalasis (Subject to the condition of accepting Bottom Seniority) for sending them to the signal work-shop. Only those Khalasis who had given their option till 23.04.1998, (subject to acceptance of bottom seniority), were sent to signal work shop. The applicant, however, never gave his option, nor he submitted any application/representation till the cut of date i.e. 23.04.1998. In this context, it is relevant to point out, that the office of Deputy Signal and Telecommunication Engineer (East), prepared a list dated 23.04.1998 of those Khalasis who had already given their option by the cut of date and same was sent to the Chief Signal and Telecommunication Engineer, North Eastern Railway, Gorakhpur. A photo copy of said letter dated 23.04.1998, has been filed as Annexure CA-1. ***In the said list the name of the applicant is not included.*** According to the Respondents no other application of the applicant had been

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received in their office. It is also submitted by the Respondents that the applicant was spared from Construction Unit to Open Line as early as, on 27.12.2000, and as such there was hardly any justification for the applicant to submit the alleged application after such a long time on 23.06.2001. A true copy of letter dated 27.12.2000 (sparing the applicant from Construction Unit to Signal Telecommunication) has been filed as Annexure CA-2 to the Written Statement. The applicant had also filed Original Application No. 331 of 2003, in this Tribunal, which was decided vide judgment and order dated 09.04.2003 with a direction to the General Manager, North Eastern Railway, Gorakhpur to decide the representation of the applicant.

4. In compliance of the aforesaid direction of the Tribunal the General Manager, North Eastern Railway, Gorakhpur passed a detailed order dated 21.08.2003.

5. It is also submitted that Chief Works Manager, Signal Work Shop and Senior Manager, Printing Press are separate Units, maintaining separate seniority. The alleged 24 persons are getting higher pay by virtue of their seniority in their Unit.

6. The applicant has filed Rejoinder Affidavit denying the pleas taken in the Counter Reply and submitted that the

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applicant personally submitted his option application, within stipulated period of time but the Respondents have arbitrarily not included the name of the applicant alongwith other 24 persons.

7. We have heard parties counsel and perused the record. It has been argued by the Learned Counsel for the applicant that he submitted his application on 28.08.1998 and gave his option for transfer to Signal Work Shop, like other 24 Khalsis but the answering respondent have arbitrarily ignored his claim and did not include his name in the list.

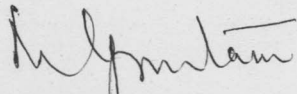
8. Learned Counsel for the Respondents, argued that the applicant was already spared on 27.12.2000, for joining the Open Line. The employees were asked to submit their option till 23.04.1998 (Subject to the condition accepting Bottom Seniority) for being sent to the Signal Work Shop, Gorakhpur, and only those Khalsis who had given their option in time were sent to Signal Work Shop. There is not an IOTA of evidence to show that the applicant ever gave his option within cut off date i.e. 23.04.1998. The applicant has not filed any postal receipt of registered letter, sending his application by registered post. The applicant has also not annexed any receipt of the office, where the alleged option was sent by him. In the list dated 23.04.1998 the names of those Khalsis who had given their

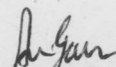
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option by the cut of date are only available. In the said list the name of the applicant does not finds place. It indicates that the applicant has not submitted any option till last date specified by the Competent Authority. The applicant has also not disclosed the mode of sending the alleged option. The applicant has also failed to submit any material indicating the receipt of Option form by the applicant. The applicant has miserably failed to explain any reason as to why he submitted application dated 23.06.2001, when he was already spared as early as on 27.12.2000 from Construction Unit to Open Line.

9. The Story set up by the applicant appears to be a Cock & Bull story, no credence could be attached to the same, in our considered view the respondent have not committed any violation of Article 14 and 16 of the Constitution of India. The applicant has failed to make out any cause for warranting interference by the Tribunal.

10. The original Application is accordingly dismissed. No Costs.


Member (J)


Member(A)

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