

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1503 of 2003.

Allahabad this the 12th day of December 2003.

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

1. Chandrabhan  
son of Sri Bajrangi.
2. Arjun Rashid  
son of Shri Hari Narain Sharma
3. Abdul Rashid  
son of Shri Abdul Majid.
4. Ram Achal Singh  
son of Sri Harihar Singh
5. Adalat  
son of Sri Achiabar.
6. Lalit Lakra  
son of Nikodin Lakra.
7. Hari Ram son of Shivchalak
8. Lalchandra  
son of Siddhu.

All are working on the post of Khalasi in the office of Principal Chief Engineer, Headquarters, North Eastern Railway, Gorakhpur.

.....Applicants.

(By Advocate :Sri Vivek Verma)

Versus.

1. Union of India  
through General Manager  
North Eastern Railway,  
Gorakhpur.
2. General Manager (Engineering)  
North Eastern Railway,  
Gorakhpur.
3. General Manager (Personnel)  
North Eastern Railway,  
Gorakhpur.

.....Respondents.

(By Advocate : Sri K.P. Singh)



O\_R\_D\_E\_R

(By Hon'ble Maj Gen K.K. Srivastava, A.M)

In this O.A., filed under section 19 of Administrative Tribunals Act 1985, the applicants have prayed for quashing the order dated 03.11.2003 redeploying the applicants as Gangman/Trackman from the cadre of Khaldasis.

2. The grievance of the applicants is that they have been declared surplus and the respondents have not called for their option for absorption, as required under Railway Board Circular dated 16.07.2001.

3. Sri Vivek Verma learned counsel for the applicant submitted that action of respondents is arbitrary and against the Rules. The applicants have filed representation on 10.11.2003 (Annexure 9) before respondent No.3.

4. Sri K.P. Singh learned counsel for the respondents opposing the claim of the applicant, submitted that in the instant case there is very limited scope of absorption of the applicants and applicants will be absorbed as per the medical category of each individual at Varanasi. The learned counsel for the respondents further submitted that the applicants have filed representation on 10.11.2003 and without even waiting <sup>for</sup> ~~from~~ the out-come of the same they have filed this O.A. on 08.12.2003. Learned counsel also sought for time to file counter. In our opinion, this is a fit case to be decided at the admission stage itself, <sup>hence</sup> Therefore, we are not inclined to call for counter affidavit.

5. We have heard counsel for the parties, considered their submissions and perused the records.



6. The short question involved in this case is whether the respondents are required to call for options from the surplus staff or not. It is not disputed by the learned counsel for the respondents that there were orders for calling for options as per Circular of 1989 but that circulars was issued in view of the closure of steam sheds, when large number of employees were rendered surplus and vacancies were existing at many places.

7. From the arguments of the counsel for the parties, it appears that the provision for calling for options still exist. Even otherwise, we observe that it would be appropriate to call for options from the surplus staff because in number of cases, the surplus staff may not be interested for his absorption in a different unit and in different capacity.

8. Therefore, in the interest of justice, we consider it appropriate to remit the case of the applicants back to respondent No.3 to review the decision and take necessary action with reference to the extant rules on the subject.

9. The O.A. is finally disposed of at the admission stage itself with direction to respondent No.3 to decide the representation of the applicants dated 10.11.2003 (Annexure 9) by a reasoned and speaking order within 2 months. We also direct that till the representation of the applicants is finally decided by respondent No.3 no action shall be taken to implement the impugned order dated 03.11.2003.

No costs.

*Air*  
Member-J.

Manish/-

*D. Jais*  
Member-A.