

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Original Application No.235 of 2003.

Allahabad this the 26th day of August 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.

Hon'ble Mr. D.R. Tiwari, Member-A.

Nazeem Khan  
aged about 42 years  
son of Shri Bashir Ahmad,  
resident of Mohalla Meham Jalal Nagar,  
Near Rani Ka Mahal, Shahjahanpur.

.....Applicant.

(By Advocate : Sri Rakesh Verma)

Versus.

1. Union of India  
through the General Manager,  
Northern Railway,  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, Moradabad.
3. The Additional Divisional Engineer,  
Northern Railway, Moradabad.
4. Inspector of Works, Northern Railway,  
Rose Jn., District Shahjahanpur.

.....Respondents.

(By Advocate : Sri A.K. Gaur)  
Sri A Sthalekar)

O R D E R

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

The applicant was initially appointed as casual labour on 1.6.1977. <sup>2</sup> A course of time, he was granted with temporary status w.e.f. 15.9.1984 and regularised as <sup>H-2</sup> <sub>L</sub> Khalasi (Group 'D') w.e.f. 25.11.1992. In the meantime, it appears that he was granted promotion to the post of painter (Group 'C') after the trade test duly approved by the competent authority. It appears that the applicant was regularised as <sup>H-2</sup> <sub>L</sub> Khalasi (Group 'D') vide order dated 25.11.1992 in terms of the letter No. APO/Misc./Screening/SPN/Sub-Div./92 dated 22.8.1992 issued by the respondent no.2 and <sup>Lab X</sup> <sub>L</sub> worked upto 31.3.1993

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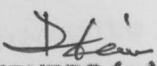
in the capacity of Khalasi (Group 'D'). However, from 1.4.1993, he has continuously been working as Painter, a Group 'C' post as admitted by the respondents. In para 7 of the Counter reply filed in the earlier O.A. no. 23/97, it appears that in the year 2003, the applicant was declared surplus taking him as Khalasi (Group 'D') possibly due to the reason that the lien <sup>was</sup> ~~he~~ maintained in Group 'D'. By the impugned order, dated 28.1.2003, <sup>the</sup> staff declared surplus has been re-deployed as per the list attached to the said order. The applicant is shown therein at sl. no. 5 as Helper Khalasi in the scale of Rs.2650-4000/-. The grievance of the applicant <sup>is</sup> ~~that~~ that he has been working as painter in the scale of Rs.3050-4590/- and his grade and designation has ~~be~~ wrongly been shown in the list of re-deployment.


2. The case of the respondents ~~is~~, on the other hand, <sup>is</sup> that the applicant has been working as Painter against a temporary post and his lien is still on the post of Helper Khalasi in Group 'D'.

3. Sri Rakesh Verma, learned counsel appearing for the applicant has submitted that the applicant has continuously been working as Painter since 1.4.1993 in the grade of Rs.3050-4590/- and though his promotion in the year 1989 was made after the trade test duly approved by the competent authority i.e. before his regularisation in Group 'D', but since the promotion was made after the trade test duly approved by the ~~a~~competent authority, his regularisation to Group 'D' should relate back to the date of his promotion to Group 'C' post of painter on which he has continuously been working since 1989 except for a short spell between 25.11.1992 and 31.3.1993. It has been submitted by the applicant's counsel that the pay of the applicant was protected even during the aforesaid period. The question raised by Sri Verma, in our opinion, needs to be considered by the competent

authority, who is <sup>to</sup> performing <sup>the</sup> the primary role, whereas <sup>one</sup> the Tribunal's role is the secondary. The O.A. is accordingly disposed of with a direction that incase the applicants files a detailed representation within a period of one month from today, the competent authority shall look into the grievance of the applicant and take appropriate decision on the representation of the applicant in accordance with law expeditiously. Till the representation is decided by the respondents, the applicant, who is admittedly working on the post of painter, shall continue to hold said post.

4. The O.A. succeeds and is allowed in part in terms of the above directions. Parties are directed to bear their own costs.

  
MEMBER (A)

  
VICE CHAIRMAN

GIRISH/-