

Central Administrative Tribunal  
Calcutta Bench, Calcutta

OA 1123/1996

This the 12<sup>th</sup> day of April, 2005

**Hon'ble Shri S.K. Malhotra, Member (A)**  
**Hon'ble Shri G. Shantappa, Member (J)**

Subrata Kumar Banerjee  
Air Condition Coach Attendant  
Under EFA' (AC),  
South Eastern Railway,  
Santragachi,  
Howrah,

o

....Applicant

(None for the applicant )

Versus

1. Union of India,  
service through the Secretary  
Ministry of Railway,  
New Delhi.
2. Chairman, Railway Board, New Delhi.
3. General Manager, South Eastern Railway,  
Garden Reach, Calcutta-43.
4. Senior Divisional Electrical Engineer (G),  
Kharagpur, S.E. Railway,  
District-Midnapore.
5. Assistant Electrical Engineer (G),  
South Eastern Railway, Santragachi  
Howrah.
6. P. Raj Naresh Kumar  
Enquiry Officer, South Eastern Railway,  
Garden Reach, Calcutta-43.
7. Chief Vigilance Officer, South  
Eastern Railway, Garden Reach,  
Calcutta-700 043.

8. Electrical Foreman,  
A/C, S.E. Railway,  
Santragachi.

...Respondents.

(By Advocate Shri S. Chowdhary)

**O R D E R (ORAL)**

**By Hon'ble Shri S.K. Malhotra, Member (A):**

In this OA, a prayer has been made by the applicant to set aside the findings of the Enquiry Officer & order of reversion passed by the disciplinary authority and allow him to join the post of Air Condition Coach Attendant with all consequential benefits.

2. The applicant was initially appointed as a Khalasi in 1984 and thereafter he got promotion to the post of Air Condition Coach Attendant. On 26-11-1994, a charge-sheet was issued to him alleging that he had committed an act of misconduct and showed non-cooperation with the vigilance officials during the checks and refused to give a stock position of bed-rolls. It was also alleged that he brought certain false allegations against the vigilance inspectors during the course of enquiry. An ex parte enquiry was conducted against him, based on which a penalty of reversion to the post of Khalasi Helper was imposed on him. According to the applicant he never received the order of penalty issued by the disciplinary authority but he later joined the post of Khalasi Helper.

3. The respondents have filed their written reply in which they have stated that he deliberately did not cooperate during the enquiry proceedings and an ex parte enquiry had to be conducted. A copy of the enquiry report was furnished to him which he received. He was reverted to the post of Khalasi Helper but he avoided receiving the

*(Signature)*

penalty order as he did not want to join the reverted post. Ultimately he joined the post on 3-9-1996 but did not prefer any appeal against imposition of penalty before filing the case before the Tribunal on 12-9-1996. Learned counsel for respondents mentioned that this OA is not maintainable as the applicant has not exhausted the remedies available to him of filing an appeal before the respondents against the imposition of penalty of reversion. This fact was not denied by the learned counsel for the applicant during the course of arguments.

4. Taking into consideration the facts and circumstances of the case, we are of the view that the applicant should have filed an appropriate appeal before the appropriate authority before approaching the Tribunal in terms of provisions contained in Section 20 of A.T. Act, 1985. We, therefore, dispose of this OA at this stage with the directions to the applicant to file an appeal before the appropriate authority within a period of one month from the date a copy of this order is received by him and in case such an appeal is filed by the applicant, the respondents shall consider the same and pass a reasoned and speaking order and convey the same to the applicant within a period of three months from the date an appeal is filed by the applicant. No costs.

  
(G. Shantappa)  
Member (J)

  
(S.K. Malhotra)  
Member (A)

/gkk/