

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH**

**O.A. NO. 826/97**

**THIS THE 29<sup>TH</sup> DAY OF MARCH, 2005**

**HON'BLE MRS. MEERA CHHIBBER, MEMBER (JUDL.)  
HON'BLE MR. K.V. PRAHALADAN, MEMBER (ADMN.)**

Guru Pada Sarkar, son of  
Sri Kalipada Sarkar, Post Office and  
Police Station – Arambag, Dist. Hooghly,  
Previously working in the Bandel Zonal  
of the Eastern Railway.

.... Applicant.

(By Advocate – None )

**Versus**

1. Union of India, through  
the Secretary, Ministry of Railways,  
Government of India, Rail Bhawan,  
New Delhi-110 001.
2. Chief Personnel Officer,  
Eastern Railway, Howrah.
3. Divisional Railway Manager,  
Eastern Railway, Howrah.
4. Divisional Personnel Officer,  
Eastern Railway, Howrah.
5. Assistant Commercial Superintendent,  
Eastern Railway.

.... Respondents.

(By Advocate Mrs. R. Basu)



## O R D E R (ORAL)

Hon'ble Mrs. Meera Chhibber, Member (JUDL.)

By this O.A., applicant has sought a direction to the respondents to absorb him as a casual employee with temporary status in the Railways as done in the case of all other applicants in the list of 52 or 70 candidates in conformity with the order dated 31.7.1990 passed in O.A. 139/1988, O.A.439/1988 and O.A.420/1988. He has further sought a direction to the respondents to ignore his age bar in case the Tribunal directs them to absorb him in order of seniority in the panel as and when vacancy arises in terms of the order dated 11.2.1994 in O.A.955/1991.

2. It is submitted by the applicant that his father was a retired employee. Applicant was employed on 10.5.1984 by the respondents authorities along with some other candidates as volunteer on a daily wage rate of Rs.8/- in the Bandel jurisdiction of the Howrah Railway Division to assist the regular Ticket Checking Staff for the purpose of preventing ticketless travelling. He worked as a volunteer without any interruption or break for two and a half years till he was removed from service on 31.1.1986.

3. It is submitted by the applicant that he acquired temporary status by virtue of length of officiating service. Some of the similarly circumstanced volunteers filed O.A. 139/1988, O.A.439/1988 and O.A.420/1988, which were disposed of by directing the respondents to constitute Screening Committee for the purpose of gradual absorption of such persons in suitable group categories in various departments of the Railways. Applicant was also called for interview on 21.7.1987 by the Screening Committee. It is



evident from the memo dated 7.1.1987 that applicant's name appears at Serial No. 48 in the panel of 52 such candidates (Annexure 'B'). After he was found fit, he was included in the list dated 29.6.1988. His name appeared at Serial No. 69 (Annexure 'C') but even though all other candidates including those who were below the applicant were absorbed by the respondents, but applicant was totally ignored. He is thus discriminated against. Being aggrieved, applicant filed O.A. 1369/94, which was disposed of by directing the respondents to consider the case of applicant with those applicant's similarly circumstanced but in spite of it, respondents have not considered the case of applicant even though in the meantime he has become age bar as well. Therefore, he had no other option but to file the present O.A. claiming the reliefs as mentioned above.

4. O.A. is opposed by the respondents. They have submitted that Sri Guruprasad Sarkar son of Sri Kalipada Sarkar worked as TC/Volunteer at Bandel station under Howrah Division for a period of 19 days only from 10.5.1984 to 01.8.1985. He was called for screening test but as the number of days fell short of 120 days, his name did not appear in the final list of Howrah Division prepared by the CPO/Kolkata vide his letter dated 29.6.1988. Applicant had earlier filed O.A. No. 1369/94 but the annexure to the said O.A. shows that Sri Guruprasad Sarkar bears the name of one Gurupada Sarkar son of B.P. Sarkar and not of the applicant Guruprasad Sarkar. Incidentally, one Sri Gurupada Sarkar son of B.P. Sarkar was also a TC/volunteer, who was subsequently absorbed and is presently working as Lampman in Asansol Division. Sri Guruprasad Sarkar son of Kalipada Sarkar did not represent before any Railway authority as directed by the Tribunal because he knew that he was claiming appointment in the Railway by producing the documents of one Gurupada Sarkar son of B.P. Sarkar who was also a



TC/Volunteer already working in Asansol Division. Sri Guruprasad Sarkar instead of making representation filed the present O.A. praying for absorption in the Railway. In the present petition, the applicant has annexed the same documents as annexed earlier which relate to Sri Gurupada Sarkar son of B.P. Sarkar who is already working in Asansol Division. Moreover, in both the O.A.s, Sri Guruprasad Sarkar never made Asansol Division as a party. Applicant instead filed another O.A. bearing No. 479/1996 which is still pending. They have thus submitted that Guruprasad Sarkar son of Kalipada Sarkar with some ulterior motive to get appointment in Railway has filed several cases based on documents of different persons. Therefore, the present O.A. is liable to be dismissed on this ground alone. In the cause title, applicant has shown his name as Gurupada Sarkar whereas in the verification page, the name is shown as Guruprasad Sarkar son of Kalipada Sarkar. Similarly, Annexure 'A' to the said application is a letter addressed to one Gurupada Sarkar but Annexure 'D' and 'E' to the said application is transfer certificate and marks sheet where the name is shown as Guruprasad Sarkar. From the records, it is clear that one Guruprasad Sarkar son of Kalipada Sarkar was engaged by Bharat Sevak Samaj as TC/Volunteer for 19 days only during the period from 10.5.1984 to 01.8.1985 and was finally discharged on 1.8.1985 whereas Gurupada Sarkar son of B.P. Sarkar was engaged as TC/Volunteer in Asansol Division and subsequently absorbed in Asansol Division. They have further submitted that applicant failed to produce any document to show that he was called for screening test. The date of birth of Gurupada Sarkar son of B.P. Sarkar is 1.1.1966, who was screened by the Railway authority vide letter dated 29.6.1988 against Item No. 69 of Asansol Division and the name of Guruprasad Sarkar son of Kalipada Sarkar is not available in the said screening

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list of any Division. Moreover, Annexure 'C' shows that there is over writing in the father's name against Serial No. 69. Therefore, it is Gurupada Sarkar son of B.P. Sarkar whose date of birth is 1.1.1966 as against Serial No. 69 and not the applicant Guruprasad Sarkar son of Kalipada Sarkar whose date of birth is 9.1.65. They have thus explained that Gurupada Sarkar is a different person from applicant as he is Guruprasad Sarkar son of Kalipada Sarkar. He is purposely filing the cases by the name of Guruprasad Sarkar as signed in the verification page. They have thus prayed that the O.A. may be dismissed.

5. During the course of arguments, counsel for the respondents placed on record the order dated 13.12.2004 passed in O.A. 479/1988 to show that in the said case, applicant did not appear and in that case also applicant had sought a direction to the respondents to absorb him in Railways without any further screening or test as given to other TC volunteers but after examining everything, the said O.A. has also been dismissed (order taken on record). From the perusal of order passed in O.A. 479/1988, it is clear that even in the said O.A., applicant had sought a direction to the respondents to absorb him in Railways without any further screening or test as given to other TC volunteers. In the present O.A. in the cause title, applicant has stated his name as Guru Pada Sarkar while in the verification clause he has stated his name as Guru Prasad Sarkar son of Sri Kalipada Sarkar which itself shows that applicant has not come to the court with clean hands. Moreover, in Annexure 'A' letter by which the candidate was called to appear for screening is addressed to Gurupada Sarkar (page 12) while Annexure 'B' shows the name of Guruprasad Sarkar at Serial No. 48. Again at page 14, it is seen that against Serial No. 69, one Sri Guru Pada Sarkar is mentioned and there is over writing in the father's

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name but his date of birth is shown to be 1.1.1966 whereas as per applicant's own certificate annexed at Annexure 'D', his date of birth has been shown as 9.1.1965 which clearly shows that the person at serial No. 69 with the name Guru Pada Sarkar is different from the person who is present before us as he has himself stated his date of birth to be 9.1.1965.

6. The above facts clearly show that applicant has not come to the court with clean hands at all. Respondents have explained that Sri Guru Pada Sarkar who was shown at Serial No. 69 is son of Shri B.P. Sarkar and is already working in Asansol Division. Apart from this, applicant has not been able to show that he was also found suitable by the Screening Committee. In fact, even though he has stated to have worked in Asansol Division, interestingly he has not even impleaded Asansol Division as respondents in the present O.A. which, of course, has been done with an ulterior motive because applicant knew that in case he impleads Asansol Division, he would be exposed.

7. At this juncture, it would be relevant to quote the judgment of Hon'ble Supreme Court in the case of Vijay Syal and Anr. Vs. State of Punjab and Ors. reported in 2003 (2) SC SLJ 134, wherein it was held as under:

"In order to sustain and maintain sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters are either mistaken or lightly taken instead of learning proper lesson. Hence there is a compelling need to take serious view in such matters to ensure expected purity and grace in the administration of justice".

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In view of the above judgment and keeping in view the facts as explained by the respondents in their counter affidavit, which have not even been controverted by the applicant, we are satisfied that this case needs to be dismissed with heavy costs. However, since applicant has not even bothered to appear in this case, no purpose would be served by imposing any cost as it would be impossible for the respondents to recover the said cost from the applicant. Therefore, we simply dismiss this case with the above observations.

*[Signature]*  
(K.V. PRAHALADAN)  
MEMBER (ADMN.)

*[Signature]*  
(SMT. MEERA CHHIBBER)  
MEMBER (JUDL.)

'SRD'