

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 1357 OF 1997

Present : Hon'ble Mr. Justice S. N. Mallick, Vice-Chairman

Hon'ble Mr. S. Dasgupta, Member (A)

PRASANTA KUMAR DEY

VS

- 1.. Union of India through the
General Manager, E. Rly.
17, Netaji Subash Road,
Calcutta- 700 001
- 2.. Divisional Railway Manager,
E. Rly. Sealdah, Calcutta-14
- 3.. Sr. Divisional Engineer,
E. Rly. Sealdah, Calcutta-14
- 4.. Sr. Div. Personnel Officer,
E. Rly. Sealdah, Calcutta-14
- 5.. Assistant Engineer,
E. Rly. Ranaghat, Dist. Nadia

..... Respondents

For the applicant : Mr. P.K.Munshi, Counsel

For the respondents : Mr. M.K.Bandopadhyay, Counsel

Heard on : 25.6.98 : Order on : 02.7.98

O R D E R

S.Dasgupta, A.M.:

The applicant entered service of Eastern Railway as Gangman on 31.1.79. On 1.8.88 he was confirmed in the said post. Later by an order dt. 3.10.89, he was posted as Carpenter Khalasi against an existing vacancy and he joined on that post on 4.10.88. Since then he had been working as Carpenter Khalasi which was mainly to help the Carpenter in all types of carpentry jobs. When the permanent incumbent to the post of Carpenter retired on 30.9.94, the post fell vacant and the applicant claims that he was entrusted with all the carpentry work and he discharged his duties as a Carpenter till 10.4.97 when a regular incumbent was appointed on that post. In this manner, he claims to have rendered service as a

wf

Carpenter for a period of 2 years six months and 91 days. The applicant's grievance is that he submitted a representation dated 13.8.97 for being granted officiating pay and allowances for performing the duties of the higher post. There was no response to the representation. Hence this application seeking officiating pay in the grade of Carpenter from 1.10.94 to 10.4.97 with other consequential benefits.

2. The respondents have contested the claim of the applicant by filing a reply in which it has been stated that the applicant had initially been appointed as Gangman and he was later posted as Khalasi in lower scale of pay on his own application. He was thereafter attached to the Carpenter to assist him in accordance with the prevailing system. When the permanent incumbent of the post of Carpenter retired from service, the applicant worked on the post from 1.10.94 to 10.4.97 as is usually done by an experienced Khalasi like the applicant. But there is no rule or provision in the railway to pay officiating allowance to a Khalasi attached to a artisan staff. It is their further case that that no order was issued directing the applicant to work on the higher post and therefore, question of paying him any officiating allowance does not arise.

3. We heard the learned counsel for both the parties and perused the pleading on record.

4. While it is admitted that the applicant was performing the duties of Carpenter, there is nothing on record to indicate that any formal order was passed by any authority, much less the competent authority, appointing him to officiate on the higher post. The only document which the applicant has annexed in support of his claim is a photocopy of a message by which the applicant was directed to attend P/No 50. A copy of this message is at annexure-C in which the applicant has been shown as Carpenter. This, however, does not constitute an

NS

order appointing the applicant to officiate on the higher post of Carpenter.

5. In a recent case of Mohd. Swaleh -vs- UOI & Ors, 1998(1) SLJ (SC) 1, the Hon'ble Supreme Court had considered the question of payment of remuneration for holding current charge of a higher post and it has been specifically held that only the competent authority can appoint a person to a higher grade and pay of the higher post can be given only if promotion is ordered by the competent authority. In the instant case no such order of promotion was issued much less by the competent authority. Therefore, the question of payment of salary of the higher post does not arise. The applicant has not cited any order under which charge allowance or officiating allowance should have been paid to him in the given situation. He has merely referred to certain circulars of the Railway board under which officiating arrangement can be made when the duration of the vacancy exceeds 30 days.. Copies of the circulars have not been annexed nor were made available to us at the time of hearing. Even assuming that it was permissible to make officiating arrangement for the post of Carpenter, there is nothing to indicate that such an arrangement was ordered by the competent authority.

6. In view of the foregoing, we are unable to interfere. The application is accordingly dismissed. The parties will bear their own costs.



(S. DASGUPTA)

MEMBER(A)



(S. N. MALLICK)

VICE CHAIRMAN