

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 41 of 2009

Reserved on 21.4.2014

Pronounced on 29 April, 2014

Hon'ble Mr. Navneet Kumar, Member -J

Hon'ble Ms. Jayati Chandra, Member-A

Mohd. Mujib, aged about 48 years, S/o Sri Mohd. Jalil, R/o Village Laulay, Police Station Chinhat, District Lucknow.

.....Applicant

By Advocate : Sri D. Awasthi

Versus.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Works Manager, Northern Railway, Locomotive Workshop, Charbagh, Lucknow.

.....Respondents.

By Advocate : Sri S. Verma.

ORDER

Per Ms. Jayati Chandra, Member-A

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 seeking following relief(s):-

- (a) *quash the impugned order dated 18.11.2012 passed by the Opposite party no.2 which is contained as Annexure no.1 t this Original Application.*
- (b) *direct the Opposite parties to give the higher pay in pay scale of Rs. 2550-3200 and seniority to the applicant from the date of his regularization i.e. 21.12.1981.*
- (c) *direct the Opposite parties to calculate the amount of arrears after fixing higher pay scale and giving seniority to the applicant from the date of his regularization and pay the same alongwith 18% interest thereon.*
- (d)
- (e)

2. The facts of the case, as averred by the applicant, are that he was initially engaged as casual labour on 26.6.1981 and after completion of 120 days, he was sent for screening and was declared successful. He was allotted sl. No. 78 out of 93 persons in the panel declared by order dated 21.12.1981 (Annexure-7).

J. Chandra

The services of the applicant were terminated vide order dated 27.12.1993 against which he filed O.A. no. 56 of 1994, which was allowed vide judgment and order dated 18.1.2002 by quashing the termination order dated 27.12.1993 with a direction to the respondents to provide fresh opportunity to the applicant (Annexure-2). In compliance of the order of the Tribunal, the applicant was reinstated in service vide order dated 27.6.2002 w.e.f. 28.6.2002 (Annexure-4). On reinstatement, the applicant was given the pay scale of Rs. 2550-3200 meant for the post of Khalasi. He was given promotion to the post of Khalasi Helper in the Grade of Rs. 2650-4000/- by order dated 30.11.2004 (Annexure-5). However, the applicant had regularly been representing for the benefit of his seniority as per original list declared on 21.12.1981. He has been praying that he was dismissed wrongfully as Khalasi and on being reinstated; he should be given of his original seniority. Consequently, his promotion to the post of Khalasi Helper must be in accordance with his placement in the original list at sl. No. 78.

3. The respondents have controverted the claim of the applicant stating therein that the applicant was working as Casual labour. Although he was screened for suitability for regularization on the post of Khalasi and was placed at sl. No. 78, but it is clearly mentioned that the absorption of the suitable candidates as regular Khalasi will be occurrence on clear vacancy. The services of the applicant were terminated from the post of Casual labour before he could be regularized on the post of Khalasi. When he was reinstated in service by order dated 27.6.2002, he had been informed that no benefit of his earlier service by the way of arrears will be given to him. He was given fresh ticket number also. The respondents have further stated that the case is old as the applicant had accepted the conditions of his reinstatement as laid out in the order dated 27.6.2002. Lastly, the respondents have stated that since the date of his reinstatement, he has been working as Khalasi and has approached to this Tribunal after considerable delay. More-over, nobody junior to him, from the date of his reinstatement as Khalasi, has been promoted by superseding him.

J. Chandra

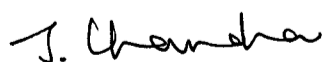
4. The Rejoinder Reply has also been filed by the applicant refuting the contentions of the respondents made in the Counter Reply and reiterating the stand taken in the Original Application.

5. We have heard the learned counsel for the parties and have also perused the pleadings on record.


6. The plea of limitation raised by the respondents is rejected and O.A. is being decided on merits.

7. Through this O.A., the applicant claims seniority as per list dated 21.12.1981. On perusal of list dated 21.12.1981, it would reveal that the said list dated 21.12.1981 is neither a seniority list nor a list of regular Khalasi. In essence, it remains a list of casual labour who had been screened and found suitable for future absorption as Khalasi on occurrence of clear vacancy. The applicant has claimed that his services were dismissed as Khalasi and on being reinstatement, he ought to have been given seniority from the date of 21.12.1981. From the perusal of Annexure no.4 dated 27.6.2002 it is clear that the applicant was reinstated in service on the post of Khalasi by clearly mentioning therein that he would not claim any payment of arrears if he is reinstated in service. More-over, the applicant was also given fresh ticket number, which has not been denied by the applicant. The applicant has been given promotion to the post of Helper Khalasi alongwith others vide order dated 30.11.2004. From the ticket numbers mentioned against each person, it appears that the said promotion has been made serially.

8. In view of the aforesaid discussion, the applicant has not been able to make out any case for interference by this Tribunal. The O.A. has no merit and is liable to be dismissed and is accordingly dismissed. No costs.



(Ms. Jayati Chandra)
Member-A
Girish/-


(Navneet Kumar)
Member -J