

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 4 20 of 1992

G.P. Gupta . . . . . Applicant

## Versus

Union of India & others . . . . . . . . . . . . . . . Respondent.

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A).

( By Hon'ble Mr. Justice U.C.Srivastava, VC)

Three opportunities were given to the respondents to file counter-affidavit, but the same has not been filed so far. There appears to be no justification in granting further time and the applicant who is present in person states that the case may be disposed of, accordingly, the case is being disposed of finally.

2. The applicant who was appointed as a cleaner Loco Shed in the Northern Railway, Lucknow and ultimately was given promotion to the post of Driver Mail Train Category A-1. Vide notice dated 30.12.1991 the applicant was informed that he has been medically declassified by Sr. Divisional Medical Officer Charbach Lucknow and was found unfit for service in A-1, A-2, A-3, B-1, B-2, C-1 and fit with class in class C-2 and as such he was granted extra ordinary leave w.e.f. 11.11.1991 to 8.5.1992 and he was also informed that efforts would be made by the Railway Administration to provide him the alternative job in class C-2 within the aforesaid period and on the expiry of the said period of 180 days he would be retired from service.

Cont'd.: 2/-

AP  
10

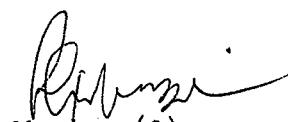
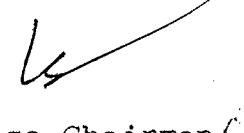
:: 2 ::

Vide notice dated 7.2.1992, he was offered the post of office Superintendent in grade Rs. 2000-3200 (RPS) that is the post of higher in the ministerial cadre, which is the promotional post for clerk of various grade, and the applicant who had passed only class IV, was offered this post. Feeling aggrieved against the same, the applicant made <sup>the</sup> representations pointing out that he is not a literate person and he can not work as a office superintendent and he subsequently prayed that he may be retired from service. The applicant was directed to join on the post of Superintendent again vide letter dated 17.6.1992. According to the applicant he has been discriminated with similarly placed other person like Inder Singh Driver who was similarly medically declassified since along with him and he was retired from service, which benefit was also given to one Saleem Khan, but the applicant has been excluded from it. He has also made reference to the paragraph 2609 Chapter 16 of the Railway Establishment Manual as well as para 1309(iv) of New Manual with regarding the alternate appointment. The alternate appointment was offered to the applicant appears to be ~~false~~ as semi-literate or ~~literate~~ person can not act as office Superintendent. It seems that the Railway Administration deliberately gave such an offer and it would have been better if the higher authority of the Railway Administration would have taken note of the said offer and taken action against the person who gave him such offer as the applicant is totally unfit to work as officer Superintendent. Obviously, the offer is an exercise of mockery. The prayer of the applicant for retirement should have

AS  
B

:: 3 ::

been granted instead making it a fun. Accordingly, this application is allowed and the respondents are directed to retire the applicant from service without delay and give all the pensionary benefits to the applicant. The applicant who is present in person, has requested sons of other have been given appointment and as such his case may also be considered in view of the fact that he has been medically declassified and has no option, but to seek retirement. This is the matter for which the applicant may approach the Railway administration and we do not like to make any observation. With these observations, this application stands disposed of finally. No order as to costs.

  
Member (A)  
Vice-Chairman

Lucknow Dated: 14.12.1992.

(RKA)