

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

O.A. 509/92

Lucknow this the 16th day of March, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).
Hon'ble Shri A.K. Misra, Member(A).

1. Sri Vidhya Prasad, aged about 45 years, son of Ram Prasad employed at Store Khalasi P.W.I. Northern Railway, Unnao R/o SS.IID 1/1151, L.D.A. Colony, Kanpur Road, Lucknow.
2. Mahesh Prasad, aged about 38 years, son of Raghunath employed at Store Khalasi, P.W.O. Northern Railway, Unnao, resident of H.No.31 Pitanbhar Nagar, Unnao.
3. Keshav Prasad, aged about 40 years, son of Ram Sunder, employed at Store Khalasi, P.W.I. Northern Railway Unnao, resident of Quarter no.G. Block No.49 Railway Colony, Unnao.
4. Ashok Kumar Misra, aged about 38 years, son of Sri Ramanuj Prasad, Misra, employed at Store Khalasi, P.W.I. Northern Railway, Unnao, R/o Quarter no.E3/A. Railway Colony, Unnao.

(None present)

Applicants.

versus.

1. Union of India, through its General Manager, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. Divisional Personnel Officer, Northern Railway, D.R.M. Office, Hazratganj, Lucknow.

(None present)

4. Assistant Engineer,
II Ind Northern Railway,
Charbagh, Lucknow.

5. PWI Northern Railway,
Unnao. ... Respondents.

(None present)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

This application has been filed by four applicants on 30.9.1992 against the order passed by the respondents dated 26.9.1992. By this order (Annexure A-6), the four applicants who were working as Store Khalasis were returned to their parental post of Gangman with immediate effect.

2. The applicants have stated that Respondent 4 had ordered their posting as Store Khalasi and they were being paid their salary in the grade of Rs.800-1150. It is noticed that in this order, the applicants are referred to as Gangman and were posted as Store Khalasis in the same grade under PWI with immediate effect on their own request.

According to the applicants, they have got a lien on the post of Store Khalasis and have impugned the order passed by the respondents dated 26.9.1992. They have prayed that the impugned order may be quashed and set aside as, according to them, it suffers from error of law and jurisdiction, which is also against the principles of natural justice. They have submitted that no opportunity was given to them to show cause before the impugned order was passed.

3. The respondents in their reply have controverted the above submissions. They have submitted that while the applicants were working as Gangman under the PWI, Northern Railway, Unnao, they had applied to the Assistant Engineer-II, Northern Railway, Lucknow for their posting as Store Khalasis under him. They have submitted that this officer is neither competent nor authorised to make appointment of the applicants

on the post of Store Khalasis. They have, therefore, submitted that the posting of the applicants as Store Khalasis was beyond the jurisdiction of Assistant Engineer-II, Northern Railway and hence, the order was void ab initio. They have also stated that the applicants cannot claim any lien under the orders passed by the Assistant Engineer, Lucknow. The ^{Store} respondents have stated that the posts of Khalasis and Gangman are different with different channel of promotions. They have further submitted that the order of the Assistant Engineer-II, Northern Railway changing the category of the applicants from Gangman to Store Khalasis was not in accordance with the Rules and, therefore, this order had to be corrected by the competent authority which has been done in the present case. In the circumstances, the respondents have submitted that there will be no question of any violation of the principles of natural justice.

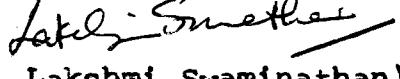
3. We note that the reply has been filed by the respondents on 12.2.1999 and this was taken on record by Tribunal's order dated 13.7.1999. In this order, three weeks time was granted to the applicants to file rejoinder to the counter affidavit of the respondents. This has, however, not been done till date.

4. From the documents filed on record by the applicants, we are unable to agree with their contentions that as they were posted as Store Khalasi⁹, they have acquired a lien to hold the post of Store Khalasis. As explained by the respondents they were originally appointed as Gangman and their category cannot be changed to any other category, including that of
18,

except B/
Store Khalasi^x by the competent authority, that is DRM. This has admittedly not been done in the present case. The applicants have relied on the letter which has been passed by the Assistant Engineer-II, Northern Railway, Lucknow dated 9.12.1991, in which it has been stated that the applicants who are Gangman are being posted as Store Khalasi^x in the same grade under PWI. It is further relevant to note that in spite of the time being given to the applicants, they have neither come or cared to file any rejoinder to the counter *reply B/* filed by the respondents as far back as February, 1999.

5. In the above facts and circumstances of the case, we find no merit in this application. It is accordingly dismissed. NO order as to costs.


(A.K. Misra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

'SRD'