

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

licant (S) Respondent (S)

Advocate for Applicant (S) Advocate for Respondent (S)

S OF THE REGISTRY	ORDERS OF THE TRIBUNAL
	<p><u>12.08.2009</u></p> <p><u>OA No. 344/2009</u></p> <p>Mr. Shiv Kumar, Counsel for applicant.</p> <p>Heard learned counsel for the applicant.</p> <p>For the reasons dictated separately, the OA is disposed of.</p> <p> (B.L. KHATRI) MEMBER (A)</p> <p> (M.L. CHAUHAN) MEMBER (J)</p> <p>AHQ</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 12th August, 2009

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

1. **ORIGINAL APPLICATION NO. 344/2009**

Birdhi Lal son of Panchu aged about 50 years, resident of Plot No. 131, Ashok Nagar, Tonk Road, Kherda, Sawaimadhopur, Rajasthan at present employed on the post of Permanent Way Supervisor (PWS), Sawaimadhopur under Senior Section Engineer (PW), Sawaimadhopur in Western Central Railway, Kota Division, Rajasthan.

.....APPLICANT

(By Advocate: Mr. Shiv Kumar)

VERSUS

1. Union of India through General Manager, Western Central Railway, Jabalpur (MP).
2. The Chairman, Railway Board, Rail Bhawan, New Delhi.
3. General Manager (P), Western Central Railway, Jabalpur (MP).
4. Senior Divisional Personnel Officer, Western Central Railway, Kota Division, Kota (Rajasthan).

.....RESPONDENTS

By Advocates : -----

2. **ORIGINAL APPLICATION NO. 345/2009**

Farook son of Shri Mustak Ahmed aged about 35 years, resident of Village Kutakpur, Post Office - Shenai, Tehsil - Hindon, District Bharatpur, Rajasthan at present employed on the post of Senior Permanent Way Supervisor at Hindon under Senior Section Engineer (PW), Hindon, in Western Central Railway, Kota Divison.

.....APPLICANT

(By Advocate: Mr. Shiv Kumar)

VERSUS

1. Union of India through General Manager, Western Central Railway, Jabalpur (MP).

2. The Chairman, Railway Board, Rail Bhawan, New Delhi.
3. General Manager (P), Western Central Railway, Jabalpur (MP).
4. Senior Divisional Personnel Officer, Western Central Railway, Kota Division, Kota (Rajasthan).

.....RESPONDENTS

By Advocates : -----

3. ORIGINAL APPLICATION NO. 357/2009

Hari Singh son of Shri Khem Chand aged about 40 years, resident of Agarsen Colony, Bayana, District Bharatpur, Rajasthan at present employed on the post of Permanent Way Supervisor (PWS) Lakhari, under Senior Section Engineer (PW), Lakhari in Western Central Railway, Kota Division, Rajasthan.

....APPLICANT

(By Advocate: Mr. Shiv Kumar)

VERSUS

1. Union of India through General Manager, Western Central Railway, Jabalpur (MP).
2. The Chairman, Railway Board, Rail Bhawan, New Delhi.
3. General Manager (P), Western Central Railway, Jabalpur (MP).
4. Senior Divisional Personnel Officer, Western Central Railway, Kota Division, Kota (Rajasthan).

.....RESPONDENTS

By Advocates : -----

ORDER (ORAL)

By this common order, we propose to dispose of these OAs by a common order as common question of facts & law is involved.

2. The applicants are aggrieved by the show cause notice dated 10.07.2009/22.07.2009 whereby the applicants have been asked to file objections as to why the panel issued vide order dated 02.02.2006 should not be modified pursuant to the judgment rendered by this Tribunal, which has been affirmed by the Hon'ble High Court. From the material placed on record, it is evident that the applicants have also filed representation to the Sr. Divisional Personnel Officer. According to

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us the present OA is not maintainable as being premature in view of the reasoning given by this Tribunal vide judgment rendered in OA No. 300/2009 [Dhirendra Narain vs. Union of India & Others] & 301/2009 [Ramesh Kumar Saraswar vs. Union of India & Others] decided on 21.07.2009. At this stage, it will be useful to quote Para nos. 6 & 7 of the said judgment, which thus reads as under:-

6. We have heard the learned counsel for the applicants at admission stage. We are of the view that no relief can be granted to the applicants for more than one reason. Firstly, the applicants have approached this Tribunal against the show cause notice. The OA is maintainable when some right of any party is infringed. A mere show cause notice does not infringe the right of anyone. It is only when order adversely affecting a party is passed and the said party can be said to have any grievance. It is not the case of such nature where notice have been issued pre-meditation or show cause notice is found to be without jurisdiction. As already noticed above, show cause notice has been issued pursuant to the judgment rendered by this Tribunal in earlier OA. Thus according to us, the present OA is pre-mature and cannot be entertained at this stage. The view which we have taken is in conformity with the law laid down by the Apex Court in number of decisions. The said view has also been reiterated in the case of Union of India and Another vs. Kunisetty Sattyarayana, 2007(2) SCC (L&S) 304.

7. That part, as can be seen from the prayer clause, as reproduced above, the applicants have prayed for quashing the order dated 10.07.2009 (Annexure A/1). Even if this order is treated to be the final order, this Tribunal has no jurisdiction to quash the said order which is based on the decision rendered by this Bench in the earlier OA. Even on this ground, the applicants are not entitled to any relief.

3. Learned counsel for the applicant submits that the judgment of this Tribunal is not being correctly implemented by the respondents. He further argued that even the Railway authorities has moved an application before this Tribunal u/s 24 of the CAT (Procedure) Rules, 1987 for clarification of the judgment rendered by this Tribunal in OA No. 57/2006 [Shiv Singh vs. Union of India & Others] and 58/2006 [Sadan Singh vs. Union of India & Others]. Under these circumstances, it was not permissible for the respondents to come to the tentative conclusion at this stage that the names of the applicants have to be deleted from the panel.

4. We have given due consideration to the submission made by the learned counsel for the applicant. The fact remains that the Railway authorities have moved the aforesaid application, which have been listed for consideration today whereby the respondents have sought clarification of the two different judgments rendered by this Tribunal, which have attained finality.

5. In view of what has been stated above, respondent no. 4, Senior Divisional Personnel Officer, Western Central Railway, Kota Division, Kota, may consider desirability of referring the matter to respondent no. 3, General Manager (P), Western Central Railway, Jabalpur (MP) for proper action to be taken on the objections filed by the applicants pursuant to show cause notice dated 10.07.2009/22.07.2009 if he feels that there are any ambiguities in the aforesaid two judgments which have been affirmed by the Hon'ble High Court. The respondents are also directed to entertain the representation of the applicant and decide the issue only after considering such representation.

6. With these observations, the OAs are disposed of accordingly with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ