

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA-2396/1995

New Delhi, this 30th day of September, 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)  
Hon'ble Shri K. Ramamoorthy, Member(A)

Shri S.K. Chandravanshy  
s/o Shri J.C. Chandravanshy  
36/2, Rani Bagh, New Delhi .. Applicant

(By Shri B.S. Maine, Advocate, through  
proxy counsel Shri B.N. Madhok)

VS.

1. The General Manager  
Northern Railway  
Baroda House, New Delhi
2. Chief Admin. Officer (Constrn.)  
Northern Railway, Kashmeri Gate, Delhi
3. Dy. Chief Engineer (Constrn.)  
Northern Railway  
Patel Nagar, New Delhi
4. The General Manager  
Central Railway, Bombay VT
5. The Dvl. Railway Manager  
Northern Railway  
State Entry Road, New Delhi .. Respondents

(By Shri B.S. Jain, Advocate)

ORDER(oral):

Shri A.V. Haridasan, VC(J)

This application is directed against the order dated 25.8.94 of the General Manager, Northern Railway, Delhi informing the applicant that as he did not hold lien on any post in Northern Railway, he cannot be admitted in the selection for promotion to Group B post in that Railways. The facts necessary for understanding the dispute in this case can be stated as follows.

2. The applicant who was appointed as IOW through the Railway Recruitment Board, Allahabad in the year 1980, was posted to work under the DRM, Delhi on 30.3.81. In

(5)

the year 1981, the applicant alongwith Shri Jaibhan Singh, IOW, Panvel (Central Railway) applied for mutual transfer which was accepted by the competent authority. The applicant was by order dated 19.9.81 transferred from Northern Railway to Central Railway and posted to MT Project. Pursuant to the mutual transfer, Shri Jaibhan Singh was posted in Northern Railway by order dated 29.7.82. The applicant did not physically take up his posting under Central Railway but continued in the construction organisation since Shri Jaibhan Singh did not report to the MT Project(Rly), Delhi, the GM(MTP), New Delhi wrote to the DRM, Northern Railway, New Delhi that the applicant could not be relieved from the post. However, the lien of the applicant was transferred to Central Railway. The grievance of the applicant is that when he applied for promotion to Group B post of AEN, he was told by the impugned order that he could not be allowed to take examination as he was not holding lien on any post in the Northern Railway and his lien was transferred to Central Railway. The applicant made representation on 30.10.94 to the GM, Northern Railway that his mutual transfer made in the year 1982 needed to be cancelled and his lien retained in Northern Railway. Finding no favourable response, the applicant has filed this application seeking the following reliefs:

- (i) Transfer the lien of the applicant from Central Rly. to Northern Rly. by cancelling the earlier transfer order; and
- (ii) To give the applicant his lien and seniority with all consequential benefits.

3: The respondents contend that the applicant's lien was transferred to Central Rly in 1982 pursuant to the mutual transfer with Shri Jaibhan Singh and consequent to the said transfer the applicant obtained regular promotions in the grade of Rs.1600-2600 w.e.f. 18.11.88 by order dated 17.10.90 (Annexure R-2) with the Central Rly, that the applicant applied for entry to the limited departmental examination for promotion to Group B post on 4.10.93, that he has appeared for the said examination on 10-11.2.96 and as the applicant does not hold lien on a post in Northern Rly and as the impugned order has no relation to the reliefs claimed, the applicant is not entitled to any relief.

4: We have perused the pleadings and material on record and heard the learned counsel for the parties. The prayer in 8(i) of the OA is for cancellation of the order of transfer of lien made in 1982. In the reply, the respondents have contended that the lien was transferred on 29.7.82 to the Central Rly and the present claim of the applicant for transfer of his lien is hopelessly barred by limitation and as such the applicant has never approached the competent authority, namely, the Central Rly for transfer of the lien to the Northern Rly till 1994. We find considerable force in this argument. The learned counsel vehemently argued that the applicant having been given the benefits of transfer on his joining Central Rly, there is no question of retransfer of his lien and in the application itself it has been conceded that lien of the applicant had been transferred as is evident from the pleadings. The categorical stand of the respondents is that the

7

(4) applicant's lien was transferred, the documents on record clearly establish that the applicant has accepted transfer of lien on the mutual transfer with Shri Jaibhan Singh and that he was promoted to the grade of Rs.1600-2660 w.e.f. 18.11.88. The application submitted by the applicant on 4.10.93 for promotion to appear in the limited departmental examination was forwarded to Central Rly and the fact that the applicant had appeared in the said examination bear testimony to the fact that the applicant was not only aware of transfer of his lien but also that he had accepted the same and derived the benefits flowing from such a transfer. The applicant who was in receipt of the benefits of transfer of lien cannot now say that transfer of lien should be cancelled for the reason that he was not physically transferred to Central Rly, therefore, the prayer of the applicant for cancellation of transfer of lien made in 1982 cannot be granted.

5. The applicant has no valid claim for the second relief also since he does not hold lien in any post in Northern Rly and as his lien as IOW is with Central Rly. He is not entitled to appear in the limited departmental examination for selection to appointment to Group B post in Northern Rly, especially when he had appeared in a similar examination under Central Railway.

6. However, since undisputedly the applicant's lien is with the Central Rly, for any change or transfer of lien, he has to apply to the Central Rly which he has not done so far. That being so, this application is premature.

(8)

7. The fact that the applicant was not physically posted ~~some~~ a post in Central Railway does not help the applicant for the reason stated above. Further, the applicant, though in the Northern Railway in a project was not holding any post in the open line.

8. In the light of what has been stated above, we do not find any merit in this application. Therefore the application is dismissed finding no merit in it. There is no order as to costs.



(K. Ramamoorthy)  
Member (A)



(A.V. Haridasan)  
Vice-Chairman (J)

/gtv/