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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1132/2000

New Delhi, this 25th day of May, 2001

Hon^{ble} Shri M.P.Singh, Member(A)

Janak Singh
Watching Khalasi
Northern Railway Hqrs. Office
Kashmere Gate, Delhi

.. Applicant.

(By Shri Neeraj Shekhar, Advocate)

versus

Union of India, through

1. Chairman, Rly., Board
Rail Bhavan, New Delhi
2. General Manager
Northern Railway
Baroda House, New Delhi
3. Chief Admn. Officer(Constn)
Hqrs. Office, Kashmere Gate, Delhi


... Respondents

(By Shri P.M. Ahlawat, Advocate)

ORDER

The applicant is before this Tribunal challenging the order dated 7/8th June, 2000 passed by R-3 whereby he stands spared and was directed to report to DPO/NR/Moradabad for further posting.

2. It is the contention of the applicant that he was engaged as Khalasi w.e.f. 11.10.1987 in Construction organisation at Kashmere Gate, Delhi and he should be assigned to Delhi Division only. By order dated 15.1.97 he was transferred to Hapur but the concerned Section Engineer there had refused to take the applicant on duty. On being returned from Hapur, the IOW, Kashmere Gate also refused to take the applicant on duty. He was posted back to construction wing at Rest House, Kashmere Gate, Delhi. Thereafter respondents ordered applicant's



transfer to Tughlakabad and then to Tundla. By order dated 7.7.99, he was transferred to Allahabad Division but without specifying any particular station/place where he was to join. When the applicant wanted to know from the respondents how he could be transferred to Allahabad Division, they informed him that he would not be relieved to Allahabad Division.

3. The applicant has further stated that as per respondents' letter dated 20.10.99, there is large number of surplus staff in Moradabad Division and it would not be possible even to take the staff whose lien is in Moradabad Division, hence they should be sent to some other Division where vacancy exists.

4. Respondents in their reply have stated that the applicant was screened on Moradabad Division and Assigned lien against the post of Khalasi on Moradabad Division vide letter dated 20.3.1996. Applicant has now been ordered for transfer to Moradabad Division on receipt of their acceptance letter dated 9.8.2000 but he did not turn up to receive the transfer letter since 11.8.2000. A registered letter was sent to his residential address but he refused to receive. The applicant was granted temporary status w.e.f. 11.10.1987 on Construction Unit against Project Work of Balawati Bridge which falls in the jurisdiction of Moradabad Division, as such he was screened by the



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Moradabad Division and provided lien as Khalasi in that Division. According to the extant instructions of the Railway Board, the working casual labourers may be regularised on any division considering the zonal railway as a unit. His transfer from Kashmore Gate to Dundla in Construction Organisation was ordered at his own request and he was correctly transferred to Moradabad Division where he holds his lien. They have further stated that the applicant is being transferred as Khalasi in the grade of Rs.2550-3200 in Moradabad Division where he holds his lien as per extant rules. He will be promoted as Helper Khalasi on regular basis on his joining that Division. Respondents have also relied upon the judgement of Hon'ble Supreme Court in Rajindra & Ors. Vs. State of Rajasthan & Ors. 2000(1) SLJ 22 112 wherein it has been held that "where there is no work, court can not encumber the employer to keep the employees". The applicant is also unauthorisedly absent since 11.3.2000. In view of this position, the applicant is not entitled for any relief prayed for and the OA be dismissed.

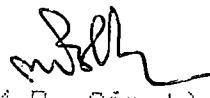
5. Heard the learned counsel for the parties and perused the records.

6. I have seen the relevant file leading the posting of applicant in Moradabad Division, produced by the department. It is seen from that file that the



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concerned officer of that Division has agreed to take back the services of the applicant, where he still holds the lien and where he could be adjusted. In view of this position, I am unable to grant the relief prayed by the applicant. Coupled with this, court/Tribunal can not interfere in the matter of transfer unless there is any malafide or that the transfer has been made in violation of the rules. The applicant has been rightly posted back to Moradabad Division where he still holds his lien. In view of this position, the action taken by the respondents in issuing the impugned letter cannot be faulted. In the result, the OA is dismissed being devoid of merit. No costs.


(M.P. Singh)
Member(A)

/gtv/