

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI.

Regn. No. OA 141 of 1989

Date of decision: 18.7.89

Shri Munshi

Applicant

Vs.

Union of India & Others

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Respondents

PRESENT

Shri V.P. Sharma, counsel for the applicant.

Shri Inderjeet Sharma, counsel for the respondents

CORAM

Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act 1985 filed by Shri Munshi, Chowkidar in the office of P.W.I., Northern Railway, Mohindergarh, against his transfer from the post of Store Chowkidar to Waterman.

2. The brief facts of the case are that the applicant joined the Railway as ^a /Gangman, but he was found medically unfit on 25.11.88 for the post of Gangman, but was fit for other alternative posts such as Store Chowkidar. He was absorbed as Chowkidar by orders of respondent No. 3 and he took over as Chowkidar on 13.12.88. Respondent No.5, Shri Gopi, working as Gangman was also found medically unfit for the post of Gangman and orders were passed on 28.12.88 to absorb him as Chowkidar in the place where the applicant had been working since 13.12.88. The impugned order has been passed to accommodate respondent No.5 who has no superior right than the applicant who is senior to Shri Gopi. The applicant has been ordered to be posted in a lower grade as a Waterman and this cannot be done without giving a reasonable opportunity to the applicant.

3. The respondents in their reply have stated that on being found medically unfit for the post of Gangman in category B-1 and being declared fit for C-I and C-II categories, the applicant was posted as Store Chowkidar at Mohindergarh. Respondent

No.5, Shri Gopi, was also declared unfit for B-I post, but was found fit for C-I and C-II posts. Since the applicant was senior to Respondent No.5, Shri Gopi, he was ordered to be posted against the regular cadre post (permanent post) of Gang Waterman and Shri Gopi against the temporary post of Store Chowkidar. The applicant being senior was given the permanent post and if he did not want that post, the applicant should have represented against the orders of the respondents before moving the Tribunal. The learned counsel for the respondents stated that the applicant had reported sick with effect from 5.1.89 with a certificate from a private doctor and as such, Shri Gopi was posted to work as Chowkidar. The respondents will have no objection to post the applicant as a Chowkidar if he did not at a later stage want confirmation against the permanent post of Waterman.

4. The learned counsel for the applicant said that the applicant was not interested in the post of Waterman at all as he has only a few years to retire and that he would like to be posted as a Chowkidar and not as a Waterman specially as he is senior to respondent No.5.

5. In view of the statements made on behalf of the applicant as well as the respondents, it is directed that the applicant may be posted as a Chowkidar with immediate effect. He may also be granted leave of whatever kind is due to him for the period of absence. The application is disposed of accordingly. There will be no orders as to cost.

B. C. Mathur
(B.C. Mathur) 1875/89
Vice-Chairman