

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 977
T.A. No.

1989

DATE OF DECISION 2.1.90

Shri O.P. Bhatnagar Applicant (s)

Shri B.S. Mainee Advocate for the Applicant (s)

Versus

Union of India Respondent (s)

Shri M.L. Verma Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*
4. To be circulated to all Benches of the Tribunal ? *no*

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. I.K. Rasgotra, Member (A))

The applicant is working as Accounts Assistant in the Railway Electrification Project, Mathura, since 19.5.1980 when he was transferred from the office of FA & CAO, Northern Railway, New Delhi as Clerk Grade-I. He is aggrieved by the impugned S.O.O. No.6/89 dated 24.4.1989, issued by Railway Electrification Project, Mathura repatriating him to his parent cadre. He has therefore filed this application under Section 19 of the Central Administrative Tribunals' Act, 1985 seeking relief by way of restraining the respondents from implementing the impugned order and quashing the same with the direction to retain the applicant in the office of Railway Electrification, Mathura. He has contended that his transfer has been ordered wrongly as, in accordance with the Railway Board's instructions dated 28.10.1968 (Annexure A5 of the application), whenever staff is rendered surplus the junior

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persons have to be transferred first. He has further contended that while he is being repatriated to his parent cadre, S/Shri S.P. Sharma, T.C. Agarwal, S.C. Saraswat, junior to the applicant are being retained by the project authorities.

2.1 In their reply to the application, the respondents have referred to the Railway Board's letter dated 25.8.1981 (page 44 of the paperbook) which regulates the policy for manpower mobilisation for meeting the staff requirements of the Railway Electrification projects. These instructions visualise that the Rly. Electrification projects are likely to take about 4 years to complete and therefore the staff can expect a tenure of about three years on one project, before moving to the next project or returning to the parent cadre. Against this expectation, the petitioner is being repatriated to his parent cadre, after more than 8 years, consequent to the shrinkage of cadre in the Accounts Department of Rly. Electrification Project, Mathura. The respondents have further stated that repatriation to the parent cadre has no connection with the trade union activities of the applicant nor has applicant made any specific allegation against any officer who had objected to his trade union activities. The question of any bias against him therefore does not arise. The reference of the applicant to the restructuring of the cadre and his consequent promotion w.e.f. 1.4.1987 as Assistant Accountant in the Rly. Electrification Projects, has also no relevance, as the promotions in Electrification Projects were made purely on adhoc basis, in accordance with the procedure defined in the Railway Board's letter of 25.8.1987 and that they do not confer any prescriptive right in favour of the applicant. It has further been stated that the applicant is being repatriated to his parent cadre from the project on the ground of shrinkage of cadre and not because the staff having been "rendered surplus". Consequently, the Railway Board's instructions regulating redeployment of surplus staff issued vide letter dated 28.10.1968 have been misconstrued and are not applicable. The respondents have further stated that the persons junior to the applicant

2

viz. Shri V.P. Sharma and Shri T.C. Agarwal have retired/ are retiring in July, 1989 and 1990 respectively. Shri N.U. Khan and Shri V.K. Gupta further down the list have been repatriated along with the applicant to their respective cadres and that Shri S.C. Saraswat has been transferred to Bhopal. The other persons junior to him listed in paragraph 2 (SNos. 1,3,4 & 5) of Annexure A-4 of the application (page 11 of the paper book) have also been reverted to their parent railways. Shri V.K. Sharma who is at SNo.2 of the list in para 2 has alone been retained in the project. The Ld. Counsel for the respondents further brought to our notice the judgements of this Tribunal in OA No.512/86 dated 6.2.1987 - Shri O.P. Chhabra Vs. UOI & Others and OA 198/88 - Jagroshanlal Vs. UOI & Others where this Tribunal has dismissed the petitions of employees working in the Railway Electrification Projects challenging the repatriation orders, in somewhat similar situations. Similar other judicial pronouncements are listed below.*

2.2 The Ld. Counsel for the respondents also filed a copy of the Minutes of the meeting of the General Manager held on 16.11.1989, giving a copy to the Ld. Counsel for the applicant. The Railway Administration has already decided to close the RE Project, Mathura, by 31.12.1989 and that closing/nucleus cell for the balance work of the RE Project, Mathura will be done at Kota under the control of CPM/RE, Kota.

3. We have heard the Ld. Counsel of both the parties and have gone through the record of the case carefully. We have also perused the pronouncement of this Tribunal referred to in paragraph 2.1 above. The Railway Electrification Projects are, by their very nature, temporary and once the electrification of the track, installation of the equipment etc. has been completed and the track energised, shrinkage of the cadre is, per force, to take place, resulting in the winding up/closing down of the temporary office. The benefit which accrued to the staff who were transferred to such temporary organisations in accordance with the Railway Board's policy, for mobilisation of manpower for

2

* 1989 (3) SLJ - Vishambarnath Upadhyay and another Vs. Union of India & Others.

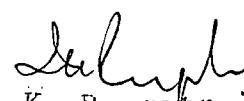
TA No.1245 of 1985 - Shri S.R. Singh Vs. UOI & Others.

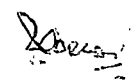
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railway electrification organisations necessarily provide incentives by way of accelerated promotions on adhoc basis, to a large number of employees, posted on these projects. Such adhoc promotions however, do not vest in them any legal right to continue on the posts, when the office itself is wound up. Consequent to the winding up/ closing of the temporary organisations, such employees have therefore to go back to their parent cadre, where they hold lien on their post. They will be entitled to their positions in the cadre, according to their seniority etc.

4. In the facts and circumstances of the case and in accordance with the discussion above, the interim order dated 11.5.1989 and continued from time to time, stands vacated and the application fails and is dismissed with no order as to the costs.


(I.K. Rasgotra)
Member (A) 21/90


2.11.90
(T.S. Oberoi)
Member (J)