

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00443/2020

Jabalpur, this Tuesday, the 03rd day of November, 2020

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Krishna Chand Kanojiya S/o Shri Phullu Kanojiya
Aged about 56 years Station Master Bikrampur
R/o Bikrampur District : Narsinghpur
(MP) PIN Code 487118
(By Advocate –**Shri Mukesh Agrawal**)

-Applicant

V e r s u s

1. The Union of India Through The General Manager
West Central Railway Near Indira Market
Jabalpur (M.P.) PIN 482001

2. The Divisional Railway Manager
West Central Railway
Opposite Old District Court Building
Jabalpur (M.P.) PIN 482001

3. The Senior Divisional Operating Manager
West Central Railway
Opposite Old District Court Building
Jabalpur (M.P.) PIN 482001

4. Dr. Madhur Verma
The Senior Divisional Operating Manager
West Central Railway
Opposite Old District Court Building
Jabalpur (M.P.) PIN 482001
(By Advocate –**Shri A.S. Raizada**)

- Respondents

ORDER (Oral)**By Ramesh Singh Thakur, JM:-**

This Original Application has been filed by the applicant against the order dated 03.10.2019 (Annexure A/1), 13.08.2019 (Annexure A/6) and 08.07.2020 (Annexure A/8) passed by respondent No.3.



2. From the pleadings the case of the applicant is that the applicant was initially appointed on 19.09.1994 as Khalasi. The applicant was appointed as Gangman. Thereafter the applicant was promoted to the post of Assistant Station Master. In October 2019 the applicant was promoted as Station Master. The applicant was transferred from time to time. Vide impugned order dated 03.10.2019 the applicant has been transferred from Bikrampur to Surasaraighat Jhara Station (SSGJ) which is more than 380 km from present place of posting and no medical facility is available within the radius of 50 km. Against this order the applicant made a representation before the respondents but that was not considered. The applicant filed O.A. No.200/971/2019 before the Tribunal and the respondents were directed to consider the representation vide order dated 24.10.2019. The representation

was submitted on 31.10.2019. The respondents have passed the impugned order dated 11.11.2019 and the representation was rejected. The employees association/Union made a request to the respondents that due to health problem of the applicant, the applicant was permitted to work as Station Master at Bikrampur during lockdown period vide order dated 15.04.2020. The same is annexed as Annexure A/4. The respondents are again compelling the applicant to be relieved from Bikrampur therefore made representation on 29.07.2020 which was acknowledged by the respondents on 30.07.2020. The same is annexed as Annexure A/10.



3. Due to non availability of train facility during COVID-19 lockdown the respondent No.4 was compelling the applicant to relieve the applicant and relieving order was not supplied to applicant. The applicant preferred O.A. No.200/390/2020 before this Tribunal and the same was disposed of vide order dated 06.08.2020 treating as premature with direction to respondents, while deciding the case of applicant the representation dated 29.07.2020 be taken into consideration. The same is annexed as Annexure A/5. In compliance of order the respondent No.4 as the capacity of

respondent No.3 again rejected the representation vide order dated 13.08.2020 mentioning the incorrect facts. A copy of same is annexed as Annexure A/6.



4. The main grounds for challenging the action of the respondents that during 26 years of length of service no incidence of quarrel with any employee took place but the respondent No.4 without any material wants to transfer the applicant by creating the ground that without taking consideration of statement of Rajkumar and Bharatnath who on 14.08.2019 stated that on 08.08.2019 ESM Meehar and Khalasi Pradeep forcibly entered in the room of the applicant while performing his duty. Secondly due to medical problem and recommendation of medical officer requesting for light job which is a reasonable demand for safety of public at large. The respondents have not considered the representation of the applicant as per direction of the Tribunal.

5. The respondents in their reply have stated that the applicant vide order dated 03.10.2019 (Annexure A/1), has been transferred from Bkrampur to Surasaraighat Jhara (SSGJ) district Singrauli. It has been specifically submitted by the replying respondents that the Railway Hospital has

recommended for light work which is factually incorrect. As per Annexure A/9 of O.A, there is no recommendation of Railway Doctor and subsequent to that medical board has given a finding that applicant is fit for his duty of Station Master. The copy of letter dated 30.12.2016 is annexed as Annexure R/1. As per latest routine medical check-up by Railway Hospital dated 02.11.2019 the applicant has been found fit for his duty i.e. duty of Station Master, copy of certificate is annexed as Annexure R/2. The applicant has been transferred in view of administrative exigency because there were compliant about his behavior. The medical facility is available at a distance of 16 km from Dubari Kala which is much near in comparison to Bikarampur.



6. We have heard the learned counsel for both the parties and have also gone through the documents annexed with the pleadings.

7. The main thrust putforth by the learned counsel for the applicant is that the order passed by the Tribunal vide Annexure A/5 whereby the respondents were directed to consider the case of the applicant in view of Annexure A/4 and the averments made in Annexure A/6 which is the

representation made by the applicant, but the respondents have passed the order dated 13.08.2020 and the respondents have not dealt with the averments made in Annexure A/4 and A/6 as mentioned in Para 6 of the order dated 06.08.2020 of this Tribunal.



8. We have gone through the representation dated 29.07.2020 Annexure A/10 made by the applicant, whereby the applicant had made averments regarding his various problems and also mentioned some places which are vacant nearby Jabalpur namely Bheraghat, Kuchhpura, Adhartal. But in the impugned order we do not find any mention of such averments or reasons for not considering the applicant despite the fact that this Tribunal vide order dated 06.08.2020 has specifically directed the respondents to decide the matter of the applicant in view of representation made by him.

9. The counsel for the applicant has relied upon the judgment of Hon'ble High Court of Madhya Pradesh passed in Writ Petition No.26683/2019 (*Alok Khare vs. The State of Madhya Pradesh and others*) whereby reliance has been placed upon a decision passed in W.P. No.5410/2015 *Ashok Singh Chouhan vs. State of M.P. and others*, in which the

Court has observed that the authorities, if does not assign any reason while passing the order pursuant to the direction of the Court and does not meet out the grounds raised in the representation, that order is not sustainable in the eyes of law.



10. In the impugned order Annexure A/6, we do not find any reasons and explanations where the representation Annexure A/10 has been dealt with. So the case of the applicant is fully covered by the judgment passed by Hon'ble High Court of Madhya Pradesh in *Ashok Singh Chouhan* (supra). Therefore the impugned order is illegal and is not in consonance with the order passed by this Tribunal. Accordingly Annexure A/6 dated 13.08.2020 is quashed and set aside. The matter is remitted back to the respondents to consider and decide the representation of the applicant by assigning cogent reasons in consonance with the order passed by this Tribunal vide order dated 06.08.2020 (Annexure A/5).

11. With these observations, this Original Application is disposed of.

(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member