

41

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

CP No. 372/99

IN

OA No. 469/89

New Delhi: this the 12th day of January, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Suresh Chandra Sharma,
S/o Shri Vishwanath Sharma,
working as Assistant Guard,
in Northern Railway, Tundla (UP)
(By Ms. Arti Mahajan, Adv)

....Applicant.

Versus

1. S/Shri
R.K. Rathod,
Asstt. Operating Manager &
Asstt. Personnel Manager,
Northern Railway,
Allahabad (UP)

2. Sukhveer Singh,
Divl. Railway Manager,
Northern Railway,
Allahabad Division,
Allahabad (UP)

3. S.P. Mehta,
General Manager,
Northern Railway,
Baroda House,
New Delhi-1

.....Respondents.

(By Advocate: Shri R.L. Dhawan)

ORDER

S.R. ADIGE, VC (A):

Heard both sides on C.P. No. 372/99.

2. The orders dated 2.11.99 issued by Respondents (Annexure-P-3) are clear and explicit, and for the reasons contained therein cannot be construed to be in contempt of the Tribunal's order dated 20.5.94 in OA No. 469/89.

42

3. By the Tribunal's order dated 20.5.94, respondents were directed not to revert applicant from the adhoc post of Asstt. Guard till vacancies of that nature was available.

4. In the notice dated 2.11.99, it is stated that not a single post of Asstt. Guard is available in the division, all of them having been surrendered, upon being declared as surplus.

5. Applicant contends that this statement is incorrect and posts of Asstt. Guard are still available.

6. Whether vacancies of Asstt. Guard are available at present or not, is not a question which can be adjudicated in a CP. If applicant is aggrieved by the aforesaid order dated 2.11.99 which gives him a fresh cause of action then in the background of the Hon'ble Supreme Court's ruling in J.S. Parihar Vs. G. Duggar & Ors. JT 1996(9) SC 608, it is open to him to challenge the same separately through appropriate original proceedings in accordance with law, if so advised.

7. CP is rejected. Notices discharged.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

/ug/