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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.724/92

Date of Decision:06.11.1992

Shri Kiran Lal ... Applicant

Versus

Union of India & Ors. ... Respondents

For the applicant ... Shri J.K. Bali, Counsel

For the respondents ... Shri R.L. Dhawan

CORAM:

The Hon'ble Vice Chairman Shri P.K. Kartha.

The Hon'ble Member Shri B.N. Dhoundiyal.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, or not? *Yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

Shri Kiran Lal, the applicant in this OA, is aggrieved by the impugned order dated 28.2.92, issued by the CAO (Construction, Northern Railway) reverting him from the Construction Division to Open Line in a lower post of Gangman in the Grade of Rs.775-1050 from the present post of PWM, in the grade of Rs.1400-2300.

2. The applicant joined the Delhi Division of Northern Railway as Gangman on 27.3.70. He was subsequently transferred to Construction organisation of Northern Railway and posted as store Issuer/MCC Clerk in the Grade of Rs,260-400. He worked in this capacity from 27.1.75 to 24.7.85. He was posted as PWM(Permanent Way Mistry) in the Grade of Rs.380-560 w.e.f. 25.7.85. However, the CAO Construction issued the impugned

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order on 28.2.92, stating that on being rendered surplus, he is reverted to his cadre status in Open Line and transferred to his parent Division. This has resulted in loss of status as well as emoluments to the applicant.

3. The respondents have stated that initially appointed as Gangman, the applicant was transferred to Construction Organisation against the ex-cadre post of Stores Issuer on a temporary local arrangement. The channel of promotion of Gangman is to the post of Permanent Way Mate and that is why vide order dated 22.7.85, he was appointed to officiate as Permanent Way Mate on adhoc local arrangement. On 12.12.91, he was transferred in the same capacity to the Construction Division Bareilly and was relieved on 7.1.92. He submitted a Sick Certificate and wilfully avoided communications addressed to him. When he did not turn up for duty upto 28.2.92, orders for his reversion to parent Division were issued. They have also mentioned that the applicant had been declared fit for duty by the Divisional Medical Officer at Delhi w.e.f. 6.1.92.

4. We have heard the arguments addressed at the Bar and had perused the pleadings put forth by the learned counsel for both parties and the documents placed on record. The applicant has stated that he fell sick and continued to be under ^{the} treatment of a private Medical Practitioner. The required medical certificates were submitted to the respondents. He did not receive any order for transfer to Delhi. Some of his ^{colleagues &} junior to him have been retained in the Construction Organisation either at Delhi or some other Stations. He has also contended that in accordance with the Railway Board's order dated 28.10.1968, the order of seniority should be the criterion for deciding the employees who are

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to be rendered surplus and the juniors must be rendered surplus first. The learned counsel for the applicant also made a statement at Bar that the applicant is prepared to go wherever there is a vacancy.

6. In the conspectus of the facts and circumstances of the case and in view of the statement by the learned counsel for the applicant that the applicant is prepared to join duty in the Construction Division wherever there is a vacancy, we direct the respondents to consider his case sympathetically and post him in the Construction Organisation any where, depending on the availability of vacancy, in the same capacity as he was holding earlier i.e. PWM.

7. In the circumstances, it would be fair and just, if the period from the date of issue of the interim order i.e.13.3.92 till his date of joining is adjusted against leave due and as Special Leave, and full emoluments are given to him.

8. The above orders shall be complied with, within a period of three months from the date of issue of this order. There will be no orders as to cost.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 6/11/92
MEMBER(A)

P.K. Kartha
6/11/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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