

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1987/93
M.P.No.2891/93
M.A.No.3883/93

VS

New Delhi this the 7th Day of January, 1994.

HON'BLE MR. B.N. DHOUNDIYAL, MEMBER(A)

1. Sh. V.K. Sharma,
S/o Sh. R.C. Sharma,
Senior Loco Inspector(Fuel)
Northern Railway,
Moradabad. Petitioner

(By advocate Sh. G.D. Bhandari)

versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chief Personnel Officer,
Northern Railway,
Baroda House,
New Delhi.
3. Sh. R.N.L. Dhussa,
Senior Loco Inspector,
Northern Railway,
Moradabad.
4. Sh. G.N. Saxena,
Senior Loco Inspector,
Northern Railway,
Moradabad. Respondents

(Respondents No.1 & 2 through Sh. R.L. Dhawan &
Respondents No.3 & 4 through Sh. M.L. Sharma)

ORDER(ORAL)

There are two applicant in this O.A.,
namely, Sh. V.K. Sharma and Sh. I.K. Misra. Sh.
I.K. Mishra, applicant No.2 ~~was~~ later allowed to
withdraw his name from the array of applicants vide
M.A.No. 3683/93. allowed on 07.01.94 .

Heard the learned counsel for the
parties. The learned counsel for the applicant has
assailed the impugned orders dated 27.7.93 and 28.8.93
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(Annexure A-1 & A-2). Vide the order dated 27.7.93, applicant Sh. V.K. Sharma has been transferred from Moradabad Division to DLI Division and posted at newly created post of SLI/Simulator at Tuglakabad Diesel Shed. Vide order dt. 28.8.93 certain adjustments had been made to accommodate some officials at Moradabad. The learned counsel for the applicant has argued that such adjustments have been made to favour some officials who were to be retained at Muradabad. He has also argued that the respondents had sent some official for specified training which is required for working as SLI/Simulator and the applicant was not trained for that purpose. He has pleaded that a vacancy in the grade of SLI/Simulator at Moradabad is likely to arise on 31.01.94 after the retirement of one Sh. Chetan Dass.

The learned counsel for the respondents has drawn attention to the Railway Board's Circular dated 25.11.92 and D.O. dated 27.11.92 which lay down that existing power controllers and Crew Controllers who are drawn from Loco running side and opting for the new scheme, who are 56 years or more in age, shall be given preference even over their seniors and posted as Loco Inspectors. According to him Respondents No.3 & 4 were retained at Moradabad under this scheme. He has also drawn our attention to circular dated 14.3.1974 which provides that transfer of staff from one station to another in the same grades should not, as a matter of principle be made within two years of the date of superannuation. Both Respondents No.3 & 4 were over 56 years of age.

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Though transfer is an incidence of service, the employer has to take into account the peculiar circumstances of a given case. In this case the applicant is fast approaching the age of 56 years and particularly the physical inability of his dependent daughter has to be taken into account. While there is no case of quashing the impugned orders, we allow the application in part to the extent that the case of the applicant for retransfer to Moradabad shall be considered sympathetically when the next vacancy occurs on 31.01.94 on the retirement of Sh. Chetan Dass. This is on the condition that the applicant shall join his new posting at Tuglakabad in compliance of the transfer order.

With these observations, the O.A. is disposed of finally. No costs.

B. N. Dhoundiyal
(B.N. Dhoundiyal) 7/1/94.

Member(A)

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