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Central Administrative Tribunal
Principal Bench

1. OA No.902/93

New Delhi this the 21st Day of December, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Sh. C.J. Roy, Member (J)

1. A.K. Raja & Others ...Applicants

(By Advocate Sh. B.S. Mainee)

Versus

Union of India & Others ...Respondents

(By Advocates Sh. R.L. Dhawan & Sh. S.K. Sawhney)

2. OA-2488/93

1. Mohinder Pal & Others ...Applicants

(By Advocate Sh. S.K. Sawhney)

Versus

1. Union of India & Others ...Respondents

(By Advocates Sh. R.L. Dhawan & Sh. G.D. Gupta)

1. To be referred to the Reporter or not? Yes

2. Whether it needs to be circulated to other

Benches of the Tribunal? No



(N.V. Krishnan)
Vice-Chairman(A)

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1. OA No.902/93

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Sh. C.J. Roy, Member (J)

1. A.K. Raja S/o Sh. Mam Chand
2. K.R.T. Kohade S/o Sh. Tryambakji
3. Arun Kumar S/o Sh. Jagdish Prasad
4. Subhash Chand S/o Sh. Shobha Ram
5. Karun Kapil S/o Sh. R.L. Sharma
6. Anoop Singh S/o Gannu Singh ...Applicants

(By Advocate Sh. B.S. Mainee)

Versus

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Chief Works Manager,
Northern Railway Workshop
Jagadhri.

(By Advocate Sh. R.L. Dhawan)

3. Mohinder Pal S/o Sh. Guradiwaya,
R/o House No.1750/B-4/1, Guru Tegh
Bahadur Jagadhari Workshop,
Jagadhari-135002.
4. Rishi Pal S/o Sh. Jeet Ram
R/o 133 B, Railway Colony,
Jagadhari Workshop,
Jagadhari-135002.
5. Ranbir Singh S/o Sh. Parse Ram
R/o 29-D, Railway Colony,
Jagadhari Workshop,
Jagadhari-135002.
6. Suresh Pal S/o Sh. Krishan Lal,
R/o 541 A2, Jagadhari Workshop,
Jagadhari-135002.
7. Manjit Singh S/o Sh. Sukhvinder Singh
R/o B-6/1821, Vishnu Nagar near Gurdawara,
Jagadhari Workshop,
Jagadhari-135002. ...Respondents

(By Advocate Sh. S.K. Sawhney)

2. OA-2488/93

1. Mohinder Pal S/o Sh. Guradiwaya,
R/o House No.1750/B-4/1, Guru Tegh
Bahadur Jagadhari Workshop,
Jagadhari-135002.
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2. Rishi Pal S/o Sh. Jeet Ram
R/o 133 B, Railway Colony,
Jagadhari Workshop,
Jagadhari-135002.
 3. Ranbir Singh S/o Sh. Parse Ram
R/o 29-D, Railway Colony,
Jagadhari Workshop,
Jagadhari-135002.
 4. Suresh Pal S/o Sh. Krishan Lal,
R/o 541 A2, Jagadhari Workshop,
Jagadhari-135002.
 5. Manjit Singh S/o Sh. Sukhvinder Singh
R/o B-6/1821, Vishnu Nagar near Gurdawara,
Jagadhari Workshop,
 6. Malesh Kumar,
Chargeman Grade 'B',
Railway Workshop, Kalka ...Applicants
- (By Advocate Sh. S.K. Sawhney)

Versus

1. Union of India through the
General Manager, Northern
Railway, Baroda House,
New Delhi.
 2. The Chief Manager (Works),
C&W Workshop, Jagadhari Workshop,
Jagadhari.
- (By Advocate Sh. R.L. Dhawan)
3. Sh. A.K. Raja, Officiating Chargeman 'A',
Railway Workshop, Jagadhari.
 4. Sh. Arun Kumar, Officiating Chargeman 'A'
Railway Workshop, Jagadhari.
 5. Sh. A.B. Aggarwal, Officiating Chargeman 'A'
Railway Workshop, Jagadhari.
 6. Sh. K.R.T. Kohade, Officiating Chargemen 'A'
Railway Workshop, Jagadhari.
 7. Sh. A.K. Gupta, Chargeman Grade 'B'
Railway Workshop, Jagadhari.
 8. Sh. Anoop Singh, Chargeman Grade 'B'
Railway Workshop, Jagadhari.
 9. Sh. C.S. Gupta,
Chargeman Grade 'B'
Railway Workshop, Jagadhari.
 10. Sh. Subhash Chand,
Chargeman Grade 'B'
Railway Workshop, Jagadhari.
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11. Sh. H.R. Ojha,
Chargeman Grade 'B'
Railway Workshop, Jagadhari.
12. Sh. Karun Kapil,
Chargeman Grade 'B'
Railway Workshop, Jagadhari.
13. Sh. Ram Kishan
Chargeman Grade 'B'
Railway Workshop, Jagadhari. Respondents

(By Advocate Sh. G.D. Gupta)

ORDER

Hon'ble Mr. N.V. Krishnan:-

OA-902/93 was filed by A.K. Raja and 4 others challenging the order dated 13.4.93 issued by the first respondent (General Manager, Northern Railway) intimating the second respondent (Chief Works Manager, Jagadhari) that the applicants have been transferred from Jagadhari workshop to the workshops where they hold their lien but that if they wanted to be retained in Jagadhari workshop they would have to accept the bottom seniority from the date of submitting application and not from back date. In pursuance of this order the second respondent issued the Annexure A-2 order, communicating this order to the officers under whom the applicants are working to ascertain whether they would like to be retained at Jagadhari workshop on the above condition. During the pendency of this OA, MP-1990/93 was filed by 5 persons, i.e. Mohinder Pal and 4 others, claiming that they are necessary parties, as they had already filed OA-47/HR/93 in the Chandigarh Bench of the Tribunal wherein the prayer was that the applicants herein should be sent back from Jagadhari workshop to the places where they had their lien. The petitioners in that MP were, therefore, impleaded as additional respondents 3-7.

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2. Subsequently, on the submissions of the counsel for all the parties we felt it proper that this OA as well as OA-47/HR/93 filed by the contesting private respondents in the Chandigarh Bench, should be heard by the same Bench to avoid conflicting decisions. Therefore, the contesting respondents have obtained orders for transfer of OA-47/HR/93 of the Chandigarh Bench for disposal by us, alongwith the present OA. Accordingly that OA was received on transfer and is now renumbered as OA-2488/93. In that OA, the prayer by Mohinder Pal and 5 others are that the respondents No.3-6 therein should not have been promoted as chargeman grade A in the Jagadhari workshop on officiating basis and that similar orders should not be passed in respect of the other respondents 7-13 and that all of them should be sent back to the workshop or division where they had their lien on the basis of their recruitment done by the Railway Recruitment Board.

3. In the circumstances, both these cases were heard together and are being disposed of by this common order. For this purpose we first consider OA-902/93 (first case).

4. The brief facts of the first case are as follows:-

4.1 A.K. Raja and 5 others were selected as Apprentice Chargeman Mechanical by the Railway Recruitment Board, Allahabad in pursuance of an advertisement No.1/85 issued on 20.4.85 (Annexure-III). They were sent for training at the System Training School Lucknow. On the

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conclusion of the training they, as well as the others who had undergone training, were directed to be allotted to certain divisions/units by the letter dated 22.2.90 of the Northern Railway addressed to the Principal of the School (Annexure R-1 produced by the contesting respondents). This order indicates the names of the persons, the trade for which they have qualified, the Railway Recruitment Board (RRB) which selected them, the division or unit to which they are allotted and the division in which their lien is fixed. From this order it is clear that applicants A.K. Raja K.R.T. Kohade, Arun Kumar and Subhash Chand were recruited by the Allahabad RRB. Likewise, the applicant, Anoop Singh was recruited by the J&K RRB and Karun Kapil was recruited by the Ajmer RRB. All of them have been allotted to Jagadhari workshop and it was clarified that they would have their lien in the Division mentioned against their names. In other words, this order indicates that the persons who have been posted out to a unit not controlled by the Railway Recruitment Board which selected them, would have their lien in the Unit/Workshop which falls within the jurisdiction of the Recruitment Board which selected them.

4.2 The applicants came to know about the particulars of the Division where their lien was maintained, only after joining the Jagadhari workshop. Immediately thereafter, the applicants sent representations to the first respondent seeking suspension/transfer of their lien. These representations were filed on various dates in March, 1990 (Annexure 10

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collectively). All the representations contained the following request, which is extracted from the representation of A.K. Raja, the first applicant:-

"3. Since I have been posted in JUDW against the clear vacancy of C/Man (Mech) Machinist. I hereby request you for fixing my lien in JUDW and suspend it from the shop where my lien is being maintained. I may add here that my further prospects for promotion and seniority may be based at JUDW from the date of my application, for option that is 20/3/90.

4. My particulars regarding lien is appended here. I most solemnly request your high office to consider my case sympathetically. Hoping for favourable consideration."

4.3 The second respondent - Chief Works Manager, Jagadhari Workshop, referred the matter to the first respondent, General Manager, on 27.3.90 (Annexure A-10 collectively) for further action by the latter, forwarding all the above applications.

4.4 Not receiving any response, the applicants made a collective representation to the second respondent on 17.6.92 for suspension of their lien. That representation concluded as follows:-

"Keeping in view, the above, it is requested to kindly pursue G.M./P/NDLS for suspension of our lien from the workshops for which we were originally selected by respective RRB and transfer our lien to Jagadhri Workshop where we have been initially posted after successful completion of our training in PSTS/CB/LKO, as we have already rendered more than two years of successful services at Jagadhri Workshop."

4.5 Apparently, the second respondent had written to them on 23.6.92 in this regard. That letter is not on record. In response to this, applicants Karun Kapil, Anoop Singh and Arun Kumar made representations (Annexure A-11) to the second respondent in which, after mentioning the above facts, they state that the Chief Works

Manager had assured that "The date of floating of our request may be considered for seniority at Jagadhri Workshop". In these representations of the applicants declare that they accept the bottom seniority from the date of joining at Jagadhri workshop or the date of floating his request for transfer of lien, i.e., 20.3.90.

4.6 Again, the second respondent took up the matter on 29.7.92 (Annexure A-11) with the General Manager for a decision about the request made by the applicants. Further on 20.9.92 (Annexure A-12) the second respondent specifically made a recommendation as follows:-

"As there exists vacancies of Ch/Man Gr. 'B' Rs.1400-2300 against direct 50% quota in these shops and as such it is recommended that the following staff who have given their consent to be retained in JUD/KLK shops be finally adjusted against the existing vacancies of direct recruitment quota.

Sl. No.	Name S/Shri	Trade	Selected from R.R.B.	Lien fixed on the Divn.
1.	A.K. Raja	Mech.	ALD	CB/LKO
2.	Arun Kumar	"	"	-do-
3.	Anup Singh	C&W	J&K	ASR
4.	Karun Kapil	MW	Ajmer	JU
5.	Subhash Chand	C&W	ALD	AMV/LKO
6.	K.R.T. Kohade	BS	"	-do-
7.	Jaibir Singh	Fdy.	J&K	ASR

It is requested that the decision of the competent authority may be obtained and communicated to this office early. Pl. also clarify how their seniority will be fixed if their lien is changed."

4.7 Inspite of these requests no reply was given by the General Manager. Instead, the impugned order (Annexure- A-1) has been communicated to the second respondent, who, in turn has sent out the impugned Annexure A-2 order, as stated in para (1) supra.

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4.8 Aggrieved by these orders, this OA has been filed to quash the Annexure A, and A-2 orders and to direct the respondents to fix the lien of the applicants at Jagadhri workshop from the date of their joining that workshop with all consequential benefits.

4.9 The main grounds urged in the OA are that the advertisement issued by the RRB, Allahabad did not earmark the selected candidates to any particular unit or division but was for the whole Northern Railway. They had made representations as early as in March, 1990 to change their lien, but no action was taken in time and the impugned orders are given in April, 1993, the effect of which would be forfeiture of service of 3 years if retention in Jagadhri workshop is pressed.

4.10 An interim direction was issued keeping the impugned Annexure A-1 and A-2 orders for 14 days to begin with, which is still continuing.

5. The respondents 1 and 2 have filed a reply, which is supplemented by two additional affidavits. Their contention is that the lien of the Apprentices goes with the division which falls within the jurisdiction of the RRB which selected them, based upon the demands placed with that RRB by such divisions. Four of the applicants were recruited by by the RRB, Allahabad, one by the RRB, Ajmer and one by RRB, J&J. After completion of the training at Lucknow, orders were to be issued allocating them to various divisions or workshops. It was then noticed that there were no vacancies in the division which fell within the jurisdiction of the RRB which selected the

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applicants and some others. Hence, they were allotted temporarily to work at Jagadhri workshop which falls under the RRB, Chandigarh. The condition of such allotment was specifically stated in that order (Annexure R-1 of Mohinder Pal's reply) as follows:-

"As regards the candidates referred to at item no. 5,6,7,8,9,11,13,14,17,18,22,26,32,33,38,40,41,42,43,44 they are posted temporarily on the units which is out of jurisdiction of RRB. Their lien will however be maintained on the Divisions as mentioned against each, keeping in view of the jurisdiction of RRB for their seniority and further promotion. However, if they become due for promotion to next grade while working in the office/units of their posting they may be considered temporarily on ad hoc basis without conforming right in future. In terms of PS No.9820 their posting is subject to probation of two years."

6. The private respondents 3-7 have also filed a similar reply. They have stated that the applicants have necessarily to seek their further avenues of promotion in the workshop or the division where they held the lien in terms of the Annexure R-1 order of the General Manager. There were a number of other persons also placed in such a situation. In respect of all such persons the above condition was stipulated. They have also relied upon the instructions of the Railway Board dated 8.9.89, addressed to the General Manager, Northern Railway (Annexure R-3). It appears that on 16.8.89 the Northern Railway sought a clarification from the Railway Board in this regard. That letter reads as follows:-

"The Railway Board vide their letter No.E(NG)II-81/RSC/89 dated 23-9-82 issued the instructions for setting up new RRB's in order to cater with the recruitment needs of N.Rly. and production units. Under this Scheme 3 new Railway Recruitment Boards were set up on the jurisdiction of N.Rly.i.e. Chandigarh, Jammu-Srinagar and Ajmer. The Board also laid down the jurisdiction of various Railway Recruitment Boards which is as under:-

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RRB/CDG
RRB/Jammu
RRB/Ajmer
RRB/ALD

UMB, DLI, Hd.Qrs.
FZR, ASR workshop, RCF & Patiala.
JU & BKN
LKO, ALD & MB.

It has further been mentioned in the letter that the posts which are directly controlled by the Division as per the allocation of jurisdiction indicated in the Annexure of this letter, will be catered by the respective RRB's.

In this connection, a question has arisen whether a candidate selected by a particular division against the requirement of the Division which is within the jurisdiction of that RRB, the candidate can be posted outside the jurisdiction of that RRB, the candidate if selected as ASM by RRB/CDG against the demand of DLI & UMB Divn. can be posted outside DLI & UMB Divn. i.e. either on ALD LKO or RCF.

It is, therefore requested that a clarification to this effect may please be issued at the earliest to avoid any complication in future as few of the HODs are insisting upon posting of the candidate out of jurisdiction of the RRB concerned."

To this letter a reply was given by the Railway Board on 8.9.89 as follows:-

"There is a specific jurisdiction for each Railway Recruitment Board. It is, therefore, necessary that this jurisdiction should be adhered to while offering appointments."

These respondents, therefore, contend that the applicants who have been recruited by the Allahabad/Ajmer/J&K RRBs should seek avenues of promotion only in the division/workshop under those RRBs to which they have now been transferred. If they still wanted to continue at Jagadri workshop they should seek transfer on voluntary request and accept bottom seniority in the grade of Chageman from prospective date.

7. Therefore, the entire issue boils down to determining as to how the lien is to be determined in these circumstances.

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8. We have heard both Sh. B.S. Mainee, the learned counsel for the applicant as well as Sh. G.D. Gupta, who appeared in the second case on behalf of the contesting party respondents therein, some of whom are applicants in the present case. Their arguments are as follows:-

i) There is nothing in the advertisement issued by the Allahabad RRB (Annexure-3) to indicate that the recruitment was for the purpose of division/workshop under the jurisdiction of that Board. On the contrary, it clearly indicated that the recruitment was for posts in the Northern Railway. Therefore, the applicants could rightly be allotted to Jagadhri workshop and their lien can be kept there.

ii) If the RRB wanted to indicate more specifically the place to which the recruitment is to be made, it is so indicated. For example, in the Annexure A-6, which is the result of certain examinations held, in item-2, it is made clear that the Trainee Chargeman is for appointment at DLW Varansi. As against this, in respect of Apprentice Assistant Chargeman (for which the applicants were selected) and Apprentice Train Examiner, whose results were announced in Annexure A-6, it is stated that it is for Northern Railway without specifically stating that it is for the divisions/workshops under that Recruitment Board. A similar advertisement has been exhibited at Annexure A-8 which indicates in column 3 in respect of certain posts that they are for the Lucknow/Moradabad/Allahabad Divisions of Northern Railway or that they are for the Diesel Railway Workshop, Varansi. Therefore, it is contended that if any

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restriction was intended regarding the selection of the applicants it would have been announced in the advertisement itself.

iii) There are many examples of appointments being made to other places. Annexure A-17 is an appointment of Y.K. Goel, selected by RRB, Chandigarh, to the AMV, Lucknow workshop. It is stated that Annexure A-18 is another such letter where the persons selected by the Allahabad RRB have been posted to Jagadhri workshop.

iv) The names of the applicants selected by RRB Allahabad are not mentioned in the seniority list issued by the Lucknow Division (Annexure A-20), though their lien is stated to be maintained in that Division.

v) In para-5 of ^{the (OA-2488/93)} short reply in respect of interim relief in the second case, the Railways have stated as follows:-

"All the private Respondents are direct recruits against 50% direct diploma holders quota. They were recruited in pursuant to Advertisement 1/85-86 dated 20.4.85 by the Head Quarters Office for Northern Railway and could be allotted to any Unit/Division."

vi) The applicants have been persistently making requests from March, 1990. Though the second respondent had repeatedly taken up their representations with the General Manager for a decision, the first respondent did not pass any order till 13.4.93 when the impugned Annexure A-1 order was issued. The option given to them is totally unfair.

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It was, therefore, contended that a declaration should be given that they were entitled to have their lien in the Jagadri workshop after giving them bottom seniority from the date on which they made a request to suspend their lien.

9. Sh. R.L. Dhawan, the learned counsel for the Railways states that the advertisement of the Allahabad Recruitment Board cannot be interpreted as argued by the learned counsel for the applicants. The jurisdiction of Allahabad Recruitment Board extends to Divisions, which fall within Northern Railway, Eastern Railway and the North-Eastern Railway. Therefore, whenever the RRB uses the expression 'Northern Railway' it should be taken to mean that portion or Divisions/Units of the Northern Railway which falls under the jurisdiction of that Board. This has been made clear by the Railway Board. This was the position which obtained even before the issue of the Annexure R-3 clarification of 8.9.89. It is because of this standing practice that in the Annexure R-1 letter to the Principal, System Training School, Chanlbagh, Lucknow dated 22.10.90 the particulars of the division where the lien has been fixed has also been indicated in those cases where the allotment is to a unit or a division outside the division where the lien is fixed. In other cases, the lien is on the division or the workshop to which a person has been allotted.

10. He also contends that the applicants were already informed about the fixation of their lien and the incidents of their allotment temporarily to the Jagadhri workshop. That the applicants were aware of this is evident

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from their referring to it in the representations filed in March, 1990. It is contended that the law does not provide for a transfer of the lien. Therefore, they had to be transferred to the places where they held the lien. At that time an opportunity was given to them to retain them at Jagadhri provided they gave an application for this purpose prospectively.

11. Sh. S.K. Sawhney, the learned counsel for the contesting respondents endorsed these arguments. He contended that the seniority on the basis of request for voluntary transfer cannot be given from a back date. It would be only prospective with effect from the date on which the request for transfer is accepted.

12. Having heard the learned counsel of the parties at length, we find that two basic questions arise.

i) Whether the appointment of the applicants in the first case consequent upon their selection by the RRB, ^Uor other RRB Allahabad/necessarily means that these applicants can have their lien only in the Divisions of the Northern Railway which fall within the jurisdiction of that R.R.B?

ii) Even if it is assumed that their selection by the RRB, Allahabad ^Uor another RRB was for appointment in the Northern Railway and not to any particular Division/Unit of Northern Railway within the jurisdiction of that RRB, whether the applicants have a right to claim that they should be absorbed in the Jagadhri Workshop only?

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13. We notice from the letter dated 16.8.89 of the Northern Railway (Annexure R-3 filed with the reply of the contesting party respondents), which has been reproduced in para-6 supra, that the jurisdiction of the RRB Chandigarh, Jammu, Ajmer and Allahabad have been defined by the Railway Board in its letter dated 23.9.82. In that letter the Board further stated "that the posts which are directly controlled by the Division as per the allocation of jurisdiction indicated in the Annexure of this letter will be catered by the respective RRBs." The very fact that the RRBs have been created having different jurisdiction would, prima facie, indicate that any recruitment by such a Board, would in the absence of any specific provision to the contrary, be for filling up vacancies in the divisions or units which fall within the jurisdiction of that RRB. That alone would appear to be reasonable. This is exactly what the Railway Board informed the Northern Railway in its reply dated 8.9.89 to the above letter.

14. It does not make sense for a recruitment to be made by the RRB Allahabad for a post which falls in the jurisdiction of the RRB, Chandigarh. If that was the intention, the Northern Railway could have organised direct recruitment at their own level. It would be inappropriate in such a case for examinations to be held by the different Boards as there is every probability of variation in standards, which is inconsistent with common recruitment. Such separate examination would be appropriate only if the recruitment is confined to that RRB, which would

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necessarily imply that they were to be allocated to the units/division or workshops falling under the Northern Railway in the jurisdiction of that RRB.

15. The learned counsel for the applicants, however, emphasized that the advertisement at Annexure A-3 indicated that the posts are meant for Northern Railway/has been countered by the argument that the RRB, Allahabad has jurisdiction over the parts of Northern Railway, Eastern Railway and the North Eastern Railway and that, therefore, the advertisement only indicated that the vacancies were in the Northern Railway portion of the jurisdiction of that Board. We are inclined to agree with this interpretation placed by the learned counsel for the respondents.

16. Having seen the records, we have to state that we noticed one circumstance, which, to begin with, intrigued us. We find from the file No.220E/262XXXI/Rectt. opened on 31.7.87 that the applicants have apparently indicated their preferences for the places where they would like to be posted. Thus, it is seen from the office notes on the basis of which orders of the competent authority were obtained fixing their lien that the applicant A.K. Raja had opted for a posting at Jagadri Workshop or Ambala Division or Lucknow. Likewise, another applicant Karun Kapil opted for Jagadri Workshop and Delhi Division. This is totally contrary to the stand taken by the Railways. For, A.K. Raja has been selected by RRB, Allahabad and he should not have been permitted to opt for Jagadhri workshop or Ambala Division. No party has produced either the full text of the advertisement issued by the various RRBs, i.e., Allahabad, Ajmer, Chandigarh, Jammu or the copy of the

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application form to verify whether such an option was called for. It then appeared to us that these options were perhaps, obtained at the Training School because the options are indicated only along with the result communicated by the Principal, System Training School in respect of the applicants' batch, which was received in the Headquarters office and was sent on 2.2.90 to the concerned Head Clerk dealing with recruitment. It is not clear if they were required to exercise any option while applying to the RRB. It stands to reason that every RRB would have only mentioned the names of the divisions/workshops/units falling within its jurisdiction to enable the candidates to specify their option. However, if the RRB, Allahabad had, indeed, mentioned that it was open to the candidates to opt for a posting in Jagadhri Workshop or to Ambala Division also, the applicants would undoubtedly have seized this circumstance to support their case. There was no mention about this fact. Therefore, nothing turns on this circumstance.

16A. A perusal of the record also shows that the competent authority was advised by the office that, according to the Railway Board's instructions, lien should be fixed in the jurisdiction of the RRB which made the recruitment. For this purpose the information regarding the tradewise as well as RRBwise names of apprentices were furnished, along with the vacancies position against each trade and the options given by them. It is on the basis of this information that it was found that certain persons like the applicants had to be accommodated at Jagadhri workshop, which is outside the jurisdiction of the RRB which selected them, because there were no vacancies in the

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units/workshops within the jurisdiction of the RRB which selected them. It is also noticed that it is not as if that the applicants alone have been allotted lien to a Division other than the Jagadhri workshop, to which they were allotted. The Annexure R-1 letter dated 20.2.90 addressed by the Northern Railway to the Principal, System Training School Charbagh, Lucknow shows that out of the 44 candidates, referred to therein as many as 20 apprentices have been treated likewise. There is none in that list where the lien has been kept at a Division which is not within the jurisdiction of the RRB which selected him. Therefore, the Railways have satisfactorily explained the reasons why the applicants were allotted to Jagadhri workshop and why their lien has been maintained in the Division falling in the jurisdiction of the RRB which recruited them.

17. Assuming for a moment that the applicants were recruited only for the Northern Railway, without any restriction, with a choice given to them about the allotment of lien, the question is whether the applicants have any right to claim that they should be allotted lien to a particular workshop/unit or a division. We are of the view that the applicants cannot claim any such right. This issue is more or less similar to the allocation of IAS officers to various State cadres in respect of which they can express preferences. In this regard the judgement of the Supreme Court in Union of India vs. Rajeev Yadav, IAS and Others (JT 1994 (5) SC 54) is instructive. It was held as follows:-

"When a person is appointed to an All India Service, having various State Cadres, he has no right to claim allocation to a State of his choice or his home

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State. "The Central Government is under no legal obligation to have options or even preferences from the officer concerned. Rule 5 of the Cadre Rules makes the Central Government the sole authority to allocate the members of the service to various cadres."

A number of persons would have been selected by the various RRBs for posting in the Northern Railway. The responsibility for fixing their lien on a Division would then rest with a central authority, i.e., General Manager, Northern Railway. There could, perhaps, be many considerations on the basis of which the lien may be allotted, choice being one. If the competent authority decided to follow the principle of allocation of lien on the basis of the jurisdiction of the RRBs which made the selection, that principle cannot be found fault with. In the circumstance, even if the contention that there was no earmarking of the applicants is accepted, we do not find that the applicants have established any case.

18. Much has been made out of para 5 of the short reply given by the Railways in the second case which has been extracted in para 8(v) supra. It was vehemently contended by Sh. G.D. Gupta that this knocks the bottom of the case of the Railways. We are not impressed by this argument. For, while taking the same stand in the final reply also (para 3), the Railways also contend as follows in para 4 (ii) of the reply:-

"4(ii) Constitution of the Railway Recruitment Board is not denied. Respondents No.3 to 13 who were selected by the Railway Rectt. Boards other than the Railway Rectt. Board Chandigarh were temporarily adjusted in other Workshops including the Jagadhri Kalka Workshops for want of vacancies in their usual territorial jurisdictions but their 'lien' was correctly maintained with the Workshops/Divisions which are within usual territory of those Railway Rectt. Boards."

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19. Sh. B.S. Mainee pointed out that, earlier, lien used to be held on a post. After the decision taken to delink confirmation from availability of posts, confirmation is made on a grade. Lien also, therefore, is the right to hold a regular post, whether temporary or permanent. This is the clarification issued by the Railway Board's letter dated 20.1.89, a copy of which has been filed by him. He also relies on the case of Triveni Shankar Saxena vs. State of U.P. & Others ((1992) 19 ATC (SC) 931). He, therefore, contends that the order dated 20.2.90 (Annexure R-1 of contesting respondents) stating that the lien has been fixed on a Division or that it cannot be changed has no meaning.

20. We are unable to agree. What has been stated by the learned counsel about lien would hold good only if the context permits such an interpretation. In the present case 'lien' as used in the Annexure R-1 order cannot be assigned that meaning. It conveys the decision that the officials are allotted a particular Division. This is similar to allotting an IAS officer to a particular State cadre ^{on} such allotment, the applicants have to seek their promotion in that Division. The Divisional Authority cannot transfer him outside the Division. No doubt, the Railway Headquarters can transfer him outside the Division on administrative interest or on his own request. Therefore, the Annexure R-1 order cannot be faulted on this ground.

21. Likewise, the sheer circumstance that the names of the applicants do not find place in the seniority lists of the Divisions where they have their lien does not mean that they do not hold lien on those Divisions. In that respect, Annexure R-1 is a final order.

22. The only other grievance of the applicants is that the respondents have slept over their representations and have now issued the impugned order dated 13.4.93. It is contended that vacancies have been available at Jagadhri Workshop to absorb the applicants there, as can be seen from the Annexure A-12 of the Chief Works Manager. Therefore, their request to change the lien on bottom seniority basis should have been conceded within a reasonable time after they had requested for it in March, 1990.

23. If the Railways did not respond to the requests made in March, 1990 within a reasonable time, the applicants could have sought legal remedies long back. The impugned order only directs them to go back to the Divisions where they have a lien. If they do not want to go back but want ^{to be} retained in Jagadhari Workshop, they can now seek a transfer. Obviously, a request for transfer can be made only after they are posted to the respective Divisions where they have their lien. That request for transfer can have only prospective effect when accepted. We have held that the applicants have no right, whatsoever, in regard to their lien and place of posting. Therefore, they cannot contend that while the permission given to them to be retained at Jagadhri workshop is to be welcomed, it cannot be stipulated therein that this will have

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prospective effect and bottom seniority has to be accepted as on the date on which they express their desire to be retained there. It is only if they had any right in this matter that any direction may be given to the Railways in this regard.

24. In the circumstances, OA-902/93 is liable to be rejected.

25. In so far as OA-2488/93 is concerned, the challenge is to the promotion given to respondents 3 to 6 therein as Chargeman 'A' coupled with a prayer that the Railways should be restrained from giving similar promotions to respondents 7 to 13 and that all of them should be sent back to the Divisions where their lien is maintained. The ground given for such a prayer is that the private respondents 3-13 therein have their lien in a Division other than the Jagadhri Workshop and that they should seek their avenues of promotion therein. The Railways have contended that these promotions have been given to them only on a temporary basis by virtue of the local seniority they enjoy in the Jagadhri workshop, though their lien is elsewhere.

26. This is in accordance with the order allotting them to Jagadhri workshop and fixing their lien elsewhere. In the view we have taken in the first case, the Railways cannot be faulted in granting promotions to the respondents temporarily in Jagadhri workshop. They have now been transferred to the respective Divisions where they

have their lien and this has been upheld in the first case. Therefore, this prayer has become infructuous. Hence, the second OA is liable to be dismissed.

27. For the foregoing reasons, these OAs are disposed of as follows:-

OA-902/93

This application is dismissed. The interim order is vacated. However, the impugned order of transfer shall be implemented only after three weeks from today within which time, in case any of the applicants wish to avail of the option given to them in terms of the impugned order, subject to the conditions attached thereto, it would be open to them to exercise such an option and communicate ^{it} to the second respondent. The option so exercised shall be deemed to have been given on 30.4.93, the cut-off date specified in the Annexure A-2 letter. The first respondent shall pass appropriate orders thereon in the light of the options given.

OA-2488/93

The O.A. is dismissed.

18. In the circumstances, the parties will bear their own costs in both the O.As.

29. This order shall be placed in the first case and a copy be placed in the second case.

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30. The Government counsel is entitled to fee in both cases separately.

History
(C.O. Roy) 21/12/94
Member(J)

'Sanju'

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21/12/94
(N.V. Krishnan)
Vice-Chairman(A)