

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

DATED THE 25 TH DAY OF NOVEMBER 1998

CORAM : HON'BLE MR. S.L.JAIN, J.M.

ORIGINAL APPLICATION NO.516/98

1. Mahesh Chand Lavania, aged about 35 years,
S/O Shri Manohar Lal, R/O Village- Tehra,
District Agra.
2. Syed Sakaul Hussain, aged about 38 years,
S/O Shri Shamsul Hussain, R/O J-20-B, North
Railway Colony, Agra Cantt. Agra.

Petitioners.

C/A Sri R.Verma, Advocate.

Versus

1. Union of India through the General Manager,
Central Railway, Chhatrapati Shivaji Terminus,
Mumbai V.T., Mumbai.
2. The Divisional Railway Manager (P)
Central Railway, Jhansi.
3. The Senior Divisional Mechanical Engineer,
Central Railway, Jhansi.
4. Shri Niyamat Khan, s/o Shri Neer Khan,
Working as Driver Grade III and posted at
Agra Cantt., Agra.
5. Shri Harish Kumar Sood, S/O Shri Bishan Singh
Sood working as Driver Grade III and posted at
Agra Cantt., Agra.

Respondents.

R/C Shri A. Sthalekar, Advocate.

S. J. M.

ORDER

By Hon'ble Mr. S.L. Jain, J.M.

This is an application under section 19 of the Administrative Tribunal Act 1985 to quash office order No. 9/98 dated 26th Feb. 1998 passed by respondent No.2 transferring the applicants from Agra Cantt to Jhansi and decide the representation.

The applicants are posted at Agra under the immediate control of the Divisional Mechanical Engineer, Diesel Shed Agra Cantt., Agra in Jhansi Division as Driver Grade III in the pay scale of Rs.3050-4590 in regular and substantive capacity. Two posts of driver grade III have become surplus in the month of Feb. 1998 hence the applicants are transferred from Agra Cantt. to Jhansi. The applicant No.1 and 2 are at serial No. 37 and 49 respectively while respondent No.4 and 5 are at serial No. 53 and 62 respectively in the seniority list. The applicants represented the matter which was duly forwarded which is pending for decision.

The transfer order is challenged on the ground that the junior most are to be transferred, the respondent No. 4 and 5 who are the junior most persons working as Driver Grade III at Agra Cantt. deserve to be transferred and not the applicants, hence this O.A. for the above said reliefs.

The respondents resisted the claim on the ground that the applicants are junior most drivers in Diesel Department from where the posts are surrendered hence prayed for dismissal of O.A. with costs.

Along with Civil Misc. Application No. 1917/98 the circular regarding policy of transfer is filed which

S.L.J.

clearly mentions as under:-

" Whenever any curtailment in a cadre takes place and the railway servants have to be transferred, as a general rule, the junior most employee should be transferred."

Board's letter No. G/66/T.R.-2/20 dated 27.7.67.

The contention of the respondents to the effect that as the post of Diesel Department has been surrendered hence the employee of other department will not be disturbed, has no force in view of the above circular, the reason being that the circular does not mention about the particular department from which the posts are surrendered and to add something to the circular is not justified by any canon of interpretation. The circular only says that the Junior most employee of the same cadre and none else.

Order passed by respondent No.2 is against the professed norm of transfer of policy hence deserves to be quashed and is quashed accordingly.

Relief regarding deciding the representation was an additional relief but in fact when the transfer order is quashed the said relief becomes infructuous.

In the result O.A. is allowed. Order No. 9/98 dated 26.2.98 passed by respondent No.2 is quashed. The respondents are ordered to bear the costs of the applicants amounting to Rs.650/- (Rs.500/- as legal practitioner's fee plus Rs.150/- as other

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expenses) payable within one month of the receipt of
the order to the applicants.

SA 8115
Member (J.)