

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the _____ day of 25.7. 2006.

Original Application No. 1165 of 1998.

Hon'ble Mr. Justice Khem Karan, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member-A

Munna Ram, S/o Ram Lal Ram,
R/o European Colony, Mughalsarai,
VARANASI.

. Applicant

By Adv: Sri S.K. Dey & Sri S.K. Mishra

V E R S U S

1. Union of India through
General Manager, E. Rly.,
Calcutta-1
2. Sri M.K. Sen DME (P), E. Rly. Mughalsarai.
3. Sri Uma Shanker Singh, L.F. Gr.B (Section
Engineer) Loco Shed, E. Rly.,
Mughalsarai.

. Respondents

By Adv: Sri A.V. Srivastava

O R D E R

By Hon'ble Mr. P.K. Chatterji, Member-A

This OA No. 1165 of 1998 was filed by Munna Ram in which the applicant is seeking redressal against the orders of his superior authority in treating him ~~absent~~ from duty from 19.05.1998 to 03.08.1998 and against the recovery of wages already paid to him during this period. The applicant has also challenged the decision of respondent No. 2 in posting the respondent No. 3 as Loco Foreman (in

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short LF) Group 'B' stating that the respondent No. 3 who belong to the running cadre is not eligible to the post of LF Group 'B'/Section Engineer. The respondent No. 3 being part of the running cadre, his channel of promotion is to the post of Loco Inspector, Power Controller etc. Therefore, allowing respondent No. 3 to continue on the post of LF Group 'B'/Section Engineer is to deprive the applicant who has right to these posts as he belongs to maintenance cadre.

2. In the OA the applicant has further alleged that the respondent No. 2 has posted him as Crew Controller which is down graded post from 09.01.1998. Moreover after posting him as Crew Controller a special pay of Rs. 300/-, which is attached to the post of Crew Controller, has not been given to him. The applicant has further stated that on being posted as Crew Controller, he reported for duty, but he was not allowed to do his work although he made several representations to which no heed was paid. It was further alleged by the applicant that while he was willing to work as Crew Controller, the respondent No. 3 did not give him charge of fuel, running room, store etc. Thereafter, the respondent Nos. 2 and 3 arbitrarily and maliciously marked him absent from work from 19.05.1998 to 03.08.1998 and also recovered the salary paid for the period.

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3. With these arguments the applicant has sought following reliefs:

a. This Court may be pleased to direct the respondents to refund the recovered amount of salary paid during 19.05.1998 to 03.08.1998, with 10 times compensation quashing the impugned order dated 24.07.1998.

b. The Court may be pleased to direct the respondent Nos. 1 and 2 to post him to the post of LF Gr.B/Section Engineer replacing the respondent No. 3.

c. Any other relief or reliefs to which he is entitled may be awarded to him.

4. The respondents have denied all the allegations of the applicant. They have refuted the contention of the applicant that respondent No. 3, Sri Uma Shanker Singh, is not eligible for Loco Foreman Group 'B'. In this connection they have cited Railway Board's letter No. E(P&A)II/83/RC-10(IV) dated 25.11.1992 and letter No. E 1025/LP/Loco Run.Supr./Policy/30 dated 01.04.1993. In para 8.4 & 9 of the first letter there is a provision for obtaining option for remaining as ALFs/LFs. The respondent No. 4 Sri Uma Shanker Singh, LF Group 'B' has given his option to remain as LF in the new scheme introduced by this letter after forgoing his claim to the additional benefits admissible to Crew Controller and Loco Inspectors. Only after obtaining the option of Sri Uma Shanker Singh, he has been allowed to work as LF Group 'B'. It is

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further clarified by the respondents that the applicant and the respondent No. 4 both belong to LF Group 'B'/Section Engineer. However, Sri Uma Shanker Singh being senior was made overall incharge and works as Supervisor in absence of LF Group 'A'/Senior Section Engineer. They have denied that any legitimate claim of the applicant has been rejected. The respondents have further denied that post of Crew Controller is a down graded post. As to the fact of not giving Rs. 300/- as special pay to the applicant, the respondents have cited the relevant provisions which says that Crew Controller, inducted from the maintenance cadre, are not eligible for drawing the special pay.

5. The respondents have also denied the allegations that they have not allowed the applicant to work as Crew Controller, though he was willing to do so. They have affirmed that before employing him as Crew Controller necessary training was also imparted to him. The applicant took part in the training without protest from and only after training he was directed to perform work of Crew Controller. However, being unhappy of his posting he refused to do any work and although he marked his attendance he did not perform any work. So to marked him absent and recover the salary for the period is totally justified.

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6. The grievance of the applicant are two. Firstly, that respondent No. 3 Sri Uma Shanker Singh has been allowed to be posted as LF Gr. 'B' and, thereafter, further promoted as LF Gr. 'I'. The second grievance is that he was marked absent from 19.05.1998 to 03.08.1998 and the pay which was already given to him has been recovered. We have applied our mind to these two points with reference to the pleadings and the point adduced during hearing. The applicant questioned the authority of the respondents in bringing respondent No. 4 to a post which is meant to be manned by the running staff. As against this, the respondents have cited relevant circulars of the Railway Board which authorizes such posting. We are of the view that the Railway Board has the power under relevant statute to issue executive orders for manning the post keeping in view the needs of operation. The respondent No. 3, Sri Uma Shanker Singh has gone above the applicant by virtue of his seniority which has been clearly explained by the respondents in their submission and their decision cannot be faulted on that account.

7. As to the propriety of putting the applicant to the post of Crew Controller, we are satisfied with the explanation given by the respondents. The applicant was posted as Crew Controller after he was imparted necessary training, but it seems that he

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was dissatisfied with the orders and did not perform his duties. But it does not prove that the action of the respondents was wrong.

8. That leaves us with the only issue of treating the applicant as absent from work and giving him no pay. If no work was preformed by the applicant in the post of Crew Controller, the respondents are justified in treating him absent and not in granting him any pay for the period. But the applicant ^{denies} emphatically ~~demise~~ that he didn't like to work. On the contrary he was not allowed to perform his job. The respondents rejects this equally categorically. This is not an issue which has been settled by an independent, objective enquiry. Having heard contradictory statements in this regard, we are of the view that it would meet the ends of justice if respondent No. 1 considered the matter afresh on a representation by the applicant on the basis of facts and records and give a decision in a reasoned, speaking manner. Accordingly the applicant will make a fresh representation before respondent No.1.

8. With these orders the OA is disposed of. No costs.

V. J. M...
Vice-Chairman

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Member (A) 25/7