

(7)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated: This the 09th day of MARCH 2006.

Original Application No. 1246 of 2005.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Brijesh Kishore, S/o Ram Lakan,
R/o Pushpa Vihar Colony, Mathura,
P.O. Gayatri Tapobhumi,
MATHURA.

.....Applicant

By Adv: Sri V. Kumar

V E R S U S

1. Union of India through General Manager,
North Central Railway,
Allahabad.
2. Divisional Railway Manager (Personnel),
North Central Railway,
Agra Cantt.
3. Divisional Railway Manager (Operating),
North Central Railway,
Agra Cantt.
4. Divisional Railway Manager (Personnel),
North Central Railway, Izatnagar,
Distt: Bareilly.
5. Divisional Railway Manager (Operating),
Distt: Bareilly.

.....Respondents

By Adv: Smt. Sikha Singh

O R D E R

The applicant is aggrieved over non
implementation of the following two orders: -

- a. Order dated 28.03.2003, whereby in his
capacity as ASM he has been transferred from
DRM, NCR, Agra to DRM, NER, Izatnagar. This
constitute inter zonal transfer as well.



- b. Order dated 19.04.2005 whereby the applicant was promoted from the post of ASM to the post of Station Master in the pay scale of Rs. 5500-9000 (Pay fixed at Rs. 6500/-).

2. According to the respondents in view of certain legal lacuna in the memorandum of agreement relating to inter zonal transfer, the applicant's case could not be considered and detailed reasons have already been intimated to the applicant vide letter dated 16.11.2005. The applicant on the other hand submits that a number of employees whose transfer has been notified under annexure A1, have been transferred and as such it cannot be agitated that there was some legal lacuna in the agreement of the applicant. Though this fact is not denied, a doubt has been raised by the respondents' counsel that the transfer effected might not involve inter zonal transfer. In so far as inter zonal transfer is concerned the same involves seniority being rescheduled.

3. The applicant's case is that he should be posted to Izatnagar Division which means that his seniority should be fixed in the new zone. If there is no legal lacuna for such inter zonal transfer, the respondents should honour their own order dated 28.03.2003 and the applicant should be treated as having been transferred to Izatnagar Division with his seniority fixed in accordance with Rules regulating the seniority on inter zonal transfer. In so far as the applicant's promotion to the post of Station Master is concerned, delay in effecting

the same unduly affects the career prospects of the applicant. Hence, it is directed that notional promotion as Station Master with retrospective effect, shall be made immediately and the notional promotion shall continue till such time he has been assigned higher responsibility of the Station Master, whereafter, the applicant would be entitled on actual basis, to his pay and allowances at the scale applicable to Station Master. For this purpose, it is to be ensured that there shall be vacancy in NER in Izatnagar Division to accommodate the applicant now as Station Master. Subject to the same, the respondents are directed to implement both the orders referred to in para 1 above, by transferring the applicant to Izatnagar Division (deemed to have been transferred w.e.f. 23.03.2003) and according necessary seniority and positing the applicant as Station Master against any available vacancy in Izatnagar Division and if not, in the next available vacancy. It is made clear that the applicant shall be entitled to higher pay and allowances actually only from the date he assumes the higher responsibility. The time calendared for consideration of this order is three months from the date of communication of this order. The OA is disposed of accordingly. No cost.



Member (J)