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Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1393 of 2005

Thursday, this the 24th day of January, 2008

Hon'ble Mr. K.S. Menon, Member (A)

1. Prakash Chandra, aged about 39 years, Son of Sri Karan Singh, Resident of Village and Post Meetai, Police Station Chand appa, Distt. Hathras.
2. Vipin Kumar Srivastava aged about 38 years, Son of Sri Prem Kishore Srivastava, Resident of 51/225/A-2, West Arjun Nagar, Agra.
3. Ashok Gautam, aged about 40 years, Son of Sri Banwari Lal Gautam, resident of 5-B, Ayodhya Kunj, Agra.

Applicants

By Advocate Sri Amrendra Kr. Srivastava

Versus

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi Division, Jhansi.
3. Senior Divisional Personal Officer, North Central Railway, Jhansi Division, Jhansi.
4. Divisional Personal Officer, North Central Railway, Agra Division, Agra.

Respondents

By Advocate Sri Anil Kumar

ORDER

By K.S. Menon, Member (A)

This O.A. has been filed jointly by three applicants S/Shri Prakash Chandra, Vipin Kumar Srivastava and Ashok Gautam against the letters dated 29.09.2005 (challenged by Prakash Chandra), dated 21.09.2005 (challenged by Vipin Kumar Srivastava) and letter dated 10.10.2005 (challenged by Ashok Gautam) issued by respondent No. 2. These letters have been issued in compliance of the Order of this Tribunal dated 25.07.2005 in O.A. No. 389 of 2005, Order dated 25.07.2005 in O.A. No. 389 of 2005 and Order dated 24.08.2005 in respect of O.A. No. 416 of 2005. By virtue of the impugned orders, the respondent

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No.2 has not considered the case of the applicants for a transfer from Jhansi Division to Agra Division of North Central Railway.

2. The facts of the case in brief are that applicant No.1 was working as Mail Trains Driver and applicant Nos. 2 and 3 were working as Passenger Trains Driver under Jhansi Division. The applicants submitted that when the new Agra Division was created on 01.04.2003 as per the Railway Board's Notification dated 04.07.2002, options were called from all categories of staff in accordance with the transfer policy issued by the Central Railway CST, Mumbai vide their letter dated 14.11.2002. The applicants accordingly applied for transfer from Jhansi to Agra and they state that their names were registered and put in the transfer list. The applicants further submit that their cases were forwarded from Jhansi Division to Agra Division and the D.R.M. Agra passed orders on their application directing their cases to be processed for their transfer to Agra Division. Thereafter, no action was taken by the Jhansi Division but on the other hand it appears that persons junior to the applicants in the cadre and who had registered on the transfer list after the applicants were registered were transferred to Agra/Mathura in the same grade and post. The applicants further claimed that they have been working as Trains Driver on the route/place coming under Agra division hence their cases should have been considered for transfer to new Agra Division. The applicants further allege that juniors were given two opportunities for transfer first to Banda and then to Agra. Their main grievance is that the respondents have not applied their mind and not acted on the direction of the Tribunal hence their actions are arbitrary, malafide and bad in law. Hence, by way of this O.A., they have prayed for direction to be issued to the respondents to transfer the applicants from Jhansi Division to Agra Division.

3. The respondents in their counter affidavit denied all the averments made by the applicants. Their main contention is that the transfer policy has been enunciated by the Headquarters Office/Personnel Office of CST Mumbai and in accordance with the Railway Board notification dated 04.12.2002. They state that this policy clearly indicates that running staff were excluded from calling of option for transfer to newly formed Agra Division. The contention of the applicants that they were registered for transfer to Agra is not correct. The respondents state that the applicants' names were registered for transfer to Agra/Mathura Stations when the Stations were under the jurisdiction of Jhansi Division of N.C. Railway and they were not

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registered for transfer to newly created Agra Division of N.C. Railway. Therefore, they claimed that transfer to Agra Division on option basis is without any merit and not tenable. As regards the applicants' contention that D.R.M., Agra had made an endorsement on their application for their cases to be processed, does not confer any right for their transfer to Agra, which is regulated purely as per relevant rules and instructions in the matter.

4. Regarding transfer of two juniors, the respondents state that this has been done on the basis of priority and as per vacancies available. They further state that the said two juniors were registered on 13.01.2003 and 24.02.2003 as per their own request while the applicants' requests were registered on 20.05.2003 as per applications received in the Office of the respondents. The respondents further contend that the application for transfer on own request, priority is maintained in order of seniority of registration and not seniority in the cadre. Since two juniors were registered earlier, they were transferred when vacancies arose in Mathur/Agra. The vacant posts mentioned in annexure-7 of the O.A. was for filling up the posts from the priority list on the basis of registration of request for transfer to Agra/Mathura and not on option basis. In view of this, they state that the contention of the applicants is without any basis.

5. The respondents further state that the said impugned orders have been issued taking into consideration the direction of this Tribunal's Orders and after application of mind, therefore, these orders do not suffer from any illegality or irregularity and contrary allegation made by the applicants lacks merit and is liable to be rejected.

6. Heard, Sri Amrendra Kumar Srivastava, Counsel for the applicants and Sri Anil Kumar, Counsel for the respondents and perused the pleadings on record.

7. The main contention of the applicants is that they have applied for Agra and their names were registered for such a transfer as borne out from annexure-3, annexure-3 A and annexure-3 B of the O.A. This fact has been denied by the respondents' No. 1 to 4 in their counter reply. Scrutiny of the documents on record reveal that applications moved for transfer by applicant No.1 and 2 was in January 2001 i.e. well before the new Agra Division came into existence on 01.04.2003. It can therefore be safely said that their applications for transfer v

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the then existing Agra Station, which at that point of time was under the jurisdiction of Jhansi Division and was not for the newly created Agra division, which came into existence much later. The applicant No. 3 applied for transfer to Agra in June 2003. As per C.P.O. (Admn.) Central Railway letter dated 14.11.2002, options were invited from the willing staff of categories and from different Divisions for transfer to the newly created Division excluding running staff. All applicants belong to running staff and so no options were called from them for such a transfer to newly created Agra Division. Therefore, stand of the applicants that their names for transfer to Agra Division were registered is without any basis and cannot be accepted. The applicants submit that the D.R.M. Agra had endorsed on their application dated 27.04.2004 for a transfer to Agra and that their cases should be processed, will not come to their help as such noting by the receiving division does not confer any vested right for such a transfer. The applicants have also relied upon the Judgment of this Tribunal dated 18.10.2007 in O.A. No. 507 of 2005 wherein the respondents have been directed to transfer the applicant from Agra Division to Jhansi. The facts, circumstances and category of the staff in the said Order are totally different from the facts, circumstances and category of the staff in the present O.A. and hence have no bearing whatsoever in this case and cannot therefore be taken cognizance of.

8. The applicants have raised another issue that their juniors were posted to Mathura/Agra although they were not only junior in the seniority list but were registered for transfer after the applicants were registered. This has been denied by the respondents in their counter reply. In paragraph No. 8 of the counter reply, the respondents No.1 to 3 have averred that the two juniors were registered on 13.01.2003 and 24.02.2003 while the applicants were registered on 20.05.2003 as per their respective requests/applications received in the Office of the respondents. Since the transfers are made strictly in accordance with the vacancy position as communicated by the receiving division and as per seniority of registration, the said juniors to the applicants were accordingly transferred. Therefore, there appears to be no infirmity in the said transfer orders of the person's junior in the cadre to the applicants as per the orders issued on 10.06.2003.

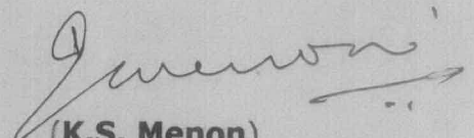
9. Another point raised by the applicants in their submission was regarding the review of Coaching Crew Links of Agra Division in paragraph 4.9 of their O.A. and indicated that they have adequate

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knowledge as they have been working on the same route, now coming under the new Agra division. This contention again lacks force as performance of duty under the system of movement of trains within the jurisdiction of Agra Division, does not confer any right on the applicants to be transferred to the new Agra Division because the post of crew so transferred from Jhansi to Agra were filled up from the staff of the newly created Agra Division. Here again, the arguments of the applicants lack force and cannot therefore be accepted.

8. In view of the above, it can be stated that the respondents have passed the Orders dated 29.09.2005, 21.09.2005 and 10.10.2005 in conformity with the observations made by this Tribunal in O.A. No. 388, 389 and 416 of 2005 and after due application of mind and as per the existing rules and regulations in this regard. The applicants have therefore not been able to make out a case calling for interference with the above mentioned orders of the respondents by this Court. The O.A. is therefore, without any merit and is accordingly dismissed. No order as to costs.


(K.S. Menon)
Member (A)

/M.M/