

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

Dated: This the 29<sup>th</sup> day of March 2011

**Original Application No.642 of 2005  
(U/s 19, Administrative Tribunal Act 1985)**

**Hon'ble Mr. S.N. Shukla, Member (A)  
Hon'ble Mr. Sanjeev Kaushik, Member (J)**

1. Smt. Geeta Devi W/o Sri Uggam Prasad, Head Clerk, Dak Box Section Office of the Chief Commercial Manager, N.E. Railway, Gorakhpur R/o Ismailpur, Gorakhpur.
2. Smt. Gayatri Devi W/o Late Sri Bhagwan Deen Mishra Head Clerk, Rate Section Office of the C.C.M. M.E. Railway, Gorakhpur, R/o Rail Vihar Phase-I, Gorakhpur.
3. Smt. Pushpa Devi W/o Sri Ravindra Kumar Gupta, Head Clerk Office of the Chief Commercial Manager, N. E. Railway, Gorakhpur R/o Old Ashuran Chungi, Basantpur, Gorakhpur.
4. Smt. Kiran Bala Gupta W/o Sri Prakash Chandra Gupta, Head Clerk, Claims Section Office of the C.C. M. N. E. Railway, Gorakhpur R/o House No.301A, Dairy Colony, Gorakhpur.
5. Smt. Renu Pandey W/o Sri Sushil Kumar Pandey, Head Clerk Office of the Chief Commercial Manager, N.E. Railway, Gorakhpur R/o House No.301A, Dairy Colony, Gorakhpur.
6. Smt. Vimla Sinha W/o Sri Rakesh Kumar Sinha, Head Clerk, Claims Section Office of the C.C.M. N.E. Railway, Gorakhpur R/o 264-B, Railway Medical Colony, Gorakhpur.
7. Shaukat Ali S/o Sri Panchu, Head Clerk Claims Section Office of the C.C.M. N.E. Railway, Gorakhpur, R/o 766F, Ramgarh Tal Railway Colony, Gorakhpur.

..... Applicants.

By Advocate: Sri H.S.N. Tripathi  
Sri J.P. Gupta

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## VER S U S

1. Union of India through G.M. N.E. Railway, Gorakhpur.
2. The General Manager/Commercial, N.E. Railway, Gorakhpur.
3. The Assistant Commercial Manager/Head Quarter Office of the Chief Commercial Manager, N.E. Railway Gorakhpur.

..... Respondents.

By Advocate: Shri A.K. Sinha Anil Dwivedi

O R D E R

Hon'ble Mr. S.N. Shukla, Member (A)

1. This OA is filed seeking following reliefs:-

(i) Allow the application and quash the impugned order dated 16.05.2005 (Annexure No.A2) with regard to the applicants.

(ii) Issue a direction to the respondents not to make any hindrance in the functioning of the applicants as Head Clerk in the office of the respondent no.2.

(iii) Issue any other relief which this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. The record shows that vide order dated 16.06.2005 the effect of impugned order in so far it relates to the applicant was stayed.
3. The brief facts are that out of the seven, six applicants are ladies and they were Commercial Clerk being Ministerial staff under the Chief Commercial Manager, N.E. Railway, Gorakhpur. Apparently, in pursuance of the office order dated 13.05.2005 passed by Assistant Personnel Officer (transfer order, N.E. Railway, Gorakhpur). The respondent no.3 passed

the impugned order (Annexure A-1) re-deploying the applicants as E.C.R.C. under Station Manager, N.E. Railway, Gorakhpur by allegedly reverting their services in the scale of Rs.4500-7000 with pay protection (Annexure A-2). The applicants represented and also submitted that the transfer order was illegal for the reason that not only it was in the nature of a reversion but also it was done without obtaining their prior option and, most importantly, some juniors from serial No. 27 to 31 of the order had been retained at the existing placed as against the applicants who were seniors. In other words the applicants have been transferred at a lower scale which is violation of Article 14 of the Constitution of India (Annexure A-3).

4. Being aggrieved by unresponsive attitude of the respondents the applicants filed the present OA. On notice Counter affidavit is filed. It was submitted that the applicants were declared surplus in the grade of Rs.5000-8000 as per the policy of Railway Board. Thereafter they were redeployed at Gorakhpur Station against re-designated post of E.C.R. C. (Enquiry) Rs. 4500-7000 with the benefit of pay protection and also with a stipulation that the pay protection and their lien will remain in the cadre of head clerk Rs.5000-8000 till they were not finally absorbed in the grade of Rs.5000-8000/-. Further that their absorption in E.C.R.C. is on a temporary basis and

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also a request of the applicants General Manager (P) Gorakhpur has issued a corrigendum dated 20.05.2005 in which it has been clarified that the surplus employees who have been declared surplus and re-deployed temporarily in Grade Rs.4500-7000 their pay will be carried at par with others without being declared surplus (Annexure RA-1 and 2).

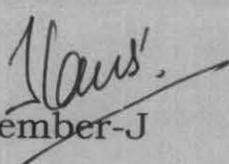
5. It was averred that the reply to the applicants representation was given in order dated 26.07.2005 (Annexure R-3). We have considered pleadings on record and written submissions filed by the counsel for the applicant. Admittedly some of the staff, more particularly applicants in this OA were re-deployed as per the policy laid down by the Railway Board as a consequence of having become surplus in the scale of Rs.5000-8000 and the re-deployment was to be in the scale Rs.4500-7000 with pay protection. However, the subsequent allegation made in para V of para 4 that some juniors from serial no.27 to 31 of Annexure A-2 having retained has never been specifically denied either in the counter affidavit or in the supplementary Counter affidavit available on record. As a matter of fact this Tribunal's order dated 16.02.2005 while granting the stay of the impugned order read required the respondents to specifically clarify their position regarding the allegations made in para 4(iv) of the OA.

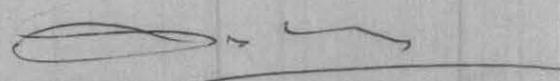
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6. We have also perused Annexure RA-3 of the CA. It does not answer applicant's grievance regarding discrimination vis-à-vis their juniors. We have also perused Annexure RA-4 of the counter affidavit being the so called corrigendum of the earlier order and we find that this order does not connect with the issue in hand. It neither includes the names of the applicants nor the alleged juniors at serial no.27 to 31 of the impugned order dated 16.05.2005 and to that extent we find that the averments of the respondents are irrelevant and are misleading.

7. In view of our observations above we are firmly of the view that the circumstances which led to granting of an interim order in the nature of stay of impugned order dated 16.05.2005 have not been answered either to the applicants nor they had been answered in the pleadings. Under these circumstances an inescapable conclusion has been drawn that the re-deployment ordered vide order dated 16.05.2005 (Annexure A-2) is discriminatory, arbitrary and against the rule of natural justice. We, therefore, have no hesitation in setting aside and quashing the impugned order dated 16.05.2005.

8. OA is allowed. No Costs.

  
Member-J

  
Member-A

/ns/