

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/144/2021

DATE OF ORDER: 28.09.2021

CORAM

**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER**

Padam Chand Bairwa S/o Shri Narayan Lal, aged about 36 years, R/o 790, Railway Colony Gangapur City, Sawai Madhopur. Pin-322201. Presently working as Chief Nursing Superintendent Gangapur City, Division Kota. 9950241440

....Applicant

Shri B.K. Jatti, counsel for applicant.

VERSUS

1. Union of India through the General Manager, North West Railway, Mother Teresa Colony, Sawai Gaitor, Jagatpura, Jaipur, Rajasthan-302017.
2. Divisional Railway Manager, North West Railway, Old Power House Road, Jaipur, Rajasthan Pin-302006.
3. Chief Personnel Officer, West Central Railway, General Manager Office Core Building Ground Floor Jabalpur (M.P.) – 482001.
4. Divisional Railway Manager (Personal), North West Railway, Manisha Rd, Railway Colony, Ajmer, Rajasthan-305001.
5. Vikram Singh Nathawat S/o Shri Bhenru Singh Nathawat, presently working as Nursing Superintendent at Divisional Hospital Ajmer, through Divisional Railway Manager (Personal), Ajmer, Rajasthan-305001.
6. Hanuman Prasad Kumawat S/o Shri Mangal Chand, presently working as Nursing Superintendent at Divisional Hospital Ajmer, through Divisional Railway Manager (Personal), Ajmer, Rajasthan-305001.

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7. Satyaveer Singh S/o Shri Nathmal Yadav, presently working as Nursing Superintendent at Divisional Hospital Ajmer through Divisional Railway Manager (Personal), Ajmer Rajasthan-305001.

.... Respondents

Shri Indresh Sharma, counsel for respondent Nos. 1, 2 & 4.
Shri P.K. Sharma, counsel for respondent No. 3.

ORDER (Oral)

Per: Hina P. Shah, Judicial Member

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for quashing and setting aside the impugned order dated 25.03.2021, (Annexure A/1), as well as order dated 01.04.2021, (Annexure A/2), and that directions be issued to the respondents to consider the application of the applicant for own request transfer and to allow transfer to the applicant as he is senior to respondent Nos. 5, 6 & 7.

2. The brief facts of the case, as stated by the applicant, are that he was initially appointed against the post of Staff Nurse, presently known as Nursing Superintendent at Bayana, Kota Division on 06.12.2013. Due to family problems and domestic difficulties, the applicant made an application for inter division transfer and submitted his application on

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07.05.2014, (Annexure A/3). The said application of the applicant was forwarded by CPO, WCR, Jabalpur to General Manager (P), Jaipur/NWR vide its letter dated 28.11.2014, (Annexure A/4). Accordingly, NWR, Jaipur Division, has issued the name noting list/priority list of Inter Railway/Division in which the name of the applicant is shown at Sl. No. 17. In the said list, the names of respondent Nos. 5, 6 & 7 are shown at Sl. No. 37, 41 and 42, respectively. The official respondents have allowed NOC to those officials who are below the applicant, therefore, being aggrieved, the applicant has filed a representation dated 26.03.2021, (Annexure A/6), but the same has not been considered by the official respondents. Thus, being aggrieved by the arbitrary act of the official respondents, the applicant has filed the present Original Application for redressal of his grievance.

3. When the matter came up for hearing today i.e. 28.09.2021, learned counsel for the applicant pointed out that the issue in the present matter can be sorted at the admission stage itself and as agreed between the parties, the matter was heard at admission stage itself. The learned counsel for the applicant stated that though the name of the applicant has been noted in

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the year 2018 and that of respondent Nos. 5 to 7 in the year 2019, yet the official respondents have considered the names of private respondent Nos. 5 to 7 though the name of the applicant should have been considered prior to those of the private respondents as he stands at Sl. No. 17 while the private respondents are much behind the applicant. On the other hand, learned counsel for the official respondents pointed out that the name of the applicant will also be considered as per rules.

4. As observed by us, on perusal of documents placed before us, it is clear that the official respondents ought to have considered the case of the applicant in all fairness prior to that of the private respondents. In spite of the unwarranted action on the part of the official respondents, it would be fair if the case of the applicant is considered as has been considered in the cases of private respondents. On the other hand, the official respondents should have made inter division/inter zonal transfer as per the date of registration of the application in the respective parent division/zone. Thus, the priority should have been strictly followed, but as seen the official respondents have failed to consider this important aspect.

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5. The ends of justice would be met if the official respondents consider the case of the applicant as he has submitted his application prior to the private respondents and, thus, in priority list also his name deserves to come ahead of the private respondents as he is senior to them.

6. In view of the observations made above, the official respondents are directed to consider the application of the applicant for inter division transfer and provide NOC to the applicant within four weeks from the date of receipt of a certified copy of this order and further the official respondents are directed to place the applicant above the private respondents in pursuance to the priority list / name noting list submitted by the applicant much ahead to that of the private respondents.

7. With these observations and directions, the present Original Application is disposed of. No order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER