

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 1720 of 1992

Bhagawan Das and Others Applicants
Versus
Union of India and Others Respondents

CORAM:

Hon'ble Justice U.C. Srivastava, V.C

The applicants Nine in Numbers have challenged their transfer order transferring them out of Allahabad in Electrical side and that is why they have prayed that the respondents may be restrained from interfering in the working of the applicants at Allahabad as Fitters/ Boiler Makers in various grades and the transfer order dated 3.11.92 which has been passed on the approval of the Divisional Railway Manager, Northern Railway Allahabad may be quashed and the respondents be directed to create supernumerary posts for the applicants as has been done in the case of various other persons.

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2. The reliefs have been claimed by the applicants on the ground that they have been continuously working, as such the transfer order is illegal, arbitrary and unjust and they cannot be transferred from Mechanical Engineering Department to Electrical Engineering Departments, even otherwise they ~~too~~ were entitled for the training and they are also entitled for absorption at Allahabad as has been done in the case in respect of the juniors of the applicants and also for creation of supernumerary posts for them as has been done in the cases of others. The applicants have never given any option for Electrical Engineering and they have never refused for training, as such they are entitled for being sent for training. If the option would have been taken from them, they could have been transferred, and no option has been taken, they cannot be asked to go outside Allahabad.

3. It appears that the Railway Board vide its letter No. E(NG) II-84/RE-10/10 dated 21.4.89 proposed the task of closure of Steam Loco Sheds and other redundant assets due to the diesalisation/electrification/modernisation of the railway working. As a result of the same after the studies and consulting and after having meeting of the Union certain decisions in this behalf have been taken. The decision has issued by the Ministry, vide its communication dated 27.3.91, a copy of

which has been placed on the record. Thereafter the directions were issued by the Railway Administration that the class III surplus staff who were below 50 years of age and have the knowledge of work in diesel were subjected for screening and those who were found suitable by the fully nominated Screening Committee were retained for Diesel Conversion Course. Similarly, the class IV surplus staff who could prove their intelligence fitting with the work of technical nature and found fit by the duly nominated Screening Committee were also retained for Diesel satellite for Diesel Conversion Course. The staff could not prove themselves suitable for the nature of work in diesel side had to be redeployed and it was considered that the departments where there is likelihood of availability of vacancies in the near future due to retirement/creation of additional posts for new assets, the staff were redeployed along with supernumerary posts attached with the incumbants.

4. The Special supernumerary posts are only allowed to be created in the circumstances where posts have been surrendered due to closure of activities and no vacancy is available. While the redeploying of the Loco Shed surplus staff, it was essential to locate

the area and activities where the surplus staff redeployed with special supernumerary posts can be adjusted. Since Steam Loco Sheds have already been closed and there being no activity left, creation of special supernumerary posts for retaining the surplus staff except where retirement is due within two years i.e. upto 31.12.94 would mean blockade of further absorption/promotion and they may not loose their seniority and that is why the redeployment as has been stated above were followed.

5. The applicants were initially in artisan category and were working as Fitter and Boiler Maker in the Steam Loco Shed and they were declared surplus, due to the closure of Loco Shed have been redeployed in the categories of artisan as fitter in the same grade allowing pay parity etc in Traction Motor Shed at Kanpur and spared on 17.11.92 to take supernumerary posts as has been admitted by the respondents, according to them, it has been created in all such cases where vacancy could have been available for the purposes of redployment, whose retirement due within two years i.e. upto 31.12.94, they were retained at their own station on the consideration that the staff at the verge of retirement should not be disturbed but none would allow the basic requirement after those who were retired after the date they were

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absorbed elsewhere instead of retrenching them in any manner.

6. Learned counsel for the applicants strenuously contended that the decision of the Ministry dated 27.3.91 has not been adhered to and Pick and Choose policy has been adopted in the case of training also, as has been stated above the training was given earlier. It may be that, applicants case could have been considered also at the stage of training but the same was not considered for one reason or the other. The same cannot be the subject to adjudication in this application. No Explanation or justification given by the respondents who have pointed out as to how the training is given of and Pick and choose policy was adopted. The contention of the learned counsel that the circular dated 27.3.91 has not been followed faithfully but rather policy of pick and choose has been adopted and in this connection he has made reference to paragraphs 2, 3 which speaks of the giving of the training as well as paragraph 5 which speaks of the declaration of junior most of the employee normally as surplus and the contention which has been elaborated in the rejoinder affidavit that the juniors who ~~are~~ stayed at Allahabad and the training ~~has~~ ^{been} already given to the juniors and

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are not retained or they have not given any training but with the particular criteria according to them, was given and they were retained. It is true that the cut off date is not being a very happy date, but after all being the case of redeployment because of the conversion, there were no option but to redeploy the persons who have been declared surplus and that is why this redeployment has been done. As such the applicants cannot urge that they have a right to be retained as particular persons and particular basis and they should not/sent elsewhere. However, in view of the fact that a particular cut off date has been given. Some of them are very near to the cut off date. It is expected at the ~~far~~ end of the service the Railway Administration will reconsider their cases sympathetically and favourably instead of taking the plea that the juniors are already retained so far because of the particular criteria and particular training and screening. In view of the fact that this application has been rejected. There appears no justification for keeping this contempt application alive and it is rejected, but with the observation that the cases of the applicants will be considered in the meantime.

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Dated: 1st January, 1993:
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