

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1549 OF 1999
ALLAHABAD THIS THE 5TH DAY OF DECEMBER,2002

HON'BLE MR. JUSTICE R.R.K. TRIVEDI?V.C.
HON'BLE MAJ GEN K.K. SRIVASTAVA,A.M.

Sri Soobaran Singh
Son of Late Prithavi Singh
Driver under the Control of D.R.M.,
Jhansi, Divisional Railway Manager,
Jhansi. Applicant

(By Advocate Shri L.K. Dwivedi)

Versus

1. Union of India
through General Manager,
Central Railway,
Mumbai.
2. Chief Personal Officer (C),
Personal Branch,
Central Railway,
Mumbai CST.
3. Divisional Railway Manager (P),
Central Railway,
Jhansi.
4. Deputy Chief Engineer (Construction)
Central Railway,
District Solapur (Maharashtra). Respondents

(By Advocate Shri P. Mathur)

ORDER

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN

By this O.A. under section 19 of Administrative
Tribunals Act 1985, the applicant has prayed for a direction
to D.R.M. Jhansi to allow the applicant to join at Jhansi
on transfer with effect from 21.10.1999 and pay regular
salary alongwith bonus for the period of 1998-1999.

2. The facts of the case are that the applicant was
appointed as Casual Driver on 23.05.1980 at Agra. He
acquired temporary status on 01.01.1984 and thereafter he
was trade tested on 26.06.1989 and was promoted as Truck
Driver on 08.07.1989 on the sanctioned post in the pay

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scale of Rs.950-1500/- . While the applicant was continuing on the above post he was transferred to Solapur in 1997 from Agra. Till 1999 the applicant was working at Solapur by order dated 24.09.1999 he was transferred from Solapur to Jhansi. However, the applicant was not allowed to join at Jhansi and he was sent back alongwith order dated 08.10.1999 (Annexure A-1) stating that no post is vacant and the applicant cannot be accommodated. The Deputy Chief Engineer (C) Solapur returned the applicant again to Jhansi with order dated 14.10.1999 and referred the matter to CPO (C), C.S.T., Mumbai. By order dated 21.10.1999 (Annexure A-3) passed the following order.

"Reference your above quoted letter addressed to DYCE (C)SUR and copied to this office, it is stated that Shri Sobran Singh, Driver of DY.CE (C)SUR holds a lien in your division and since he is rendered surplus in Const. Orgn, you are bound to accept and post him against available vacancy or by reverting the junior-most staff.

In view of the above, DY.CE(C)SUR is being advised to re-direct Shri Sobran Singh, Driver to you for further posting.

This issues with the approval for Competent authority."

Thereafter alongwith letter dated 25/27.10.1999 (Annexure A-4) the papers relating to employment were send to D.R.M. (P) Jhansi.

3. The grievence of the applicant is that though the orders were passed but the applicant has not been allowed to join and he has not been paid salary since 1999.

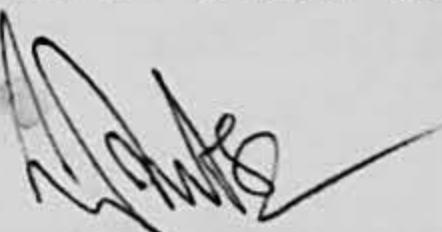
4. After hearing counsel for the parties, in our opinion, the matter requires to be referred to an authority which may pass a binding order so that the sub-ordinate authorities may not ignore the same. In this case there is no factual dispute and there is no order on record terminating, dismissing or retiring the applicant compulsorily or even suspending him from the post.



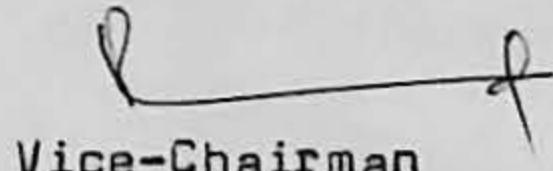
5. In the circumstances he is entitled to work on the post and also entitled to receive salary. The dispute appears among the authorities in accommodating the applicant in particular place. Such a dispute can be resolved only by an order passed by the superior authority which the subordinate authority may not be ^{unable to} ignore.

6. Subsequently we are disposing this O.A with a direction to General Manager, Central Railway, Mumbai, to consider the claim of the applicant and pass an appropriate order posting him at definite place within two months from the date of a copy of this order is filed before him and also direct ~~him~~ to give payment of the arrears of salary and other benefits since 1999. The order passed shall be communicated to ~~the learned counsel~~ for the applicant.

7. There shall be no order as to costs.



Member-A



Vice-Chairman

/ Neelam/