

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 188 day of Sep 2005.

Original Application No. 1568 of 1999.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Surendra Singh, S/o late Shri M. Singh,  
R/o Vill and Post Kapua, Distt: Agra.  
At present working as Head Train Numbering Clerk  
(TNC) at Yamuna Bridge,  
Agra.

.....Applicant

By Adv: Nemo

V E R S U S

1. The Union of India through General Manager,  
Western Railway, Bombay VT  
Bombay.
2. Divisional Railway Manager, Western Railway,  
Kota Division.
3. Senior Divisional Operating Manager (Estt.)  
Western Railway,  
Kota Division.
4. Divisional Railway Manager/ Officer on Special  
Duty, North Central Railway, Agra Division,  
Agra.
5. Shri N.K. Sarover, Chief Trains Clerk,  
Yamuna Bridge Station, Agra Division,  
Agra (N.C. Railway)

.....Respondents

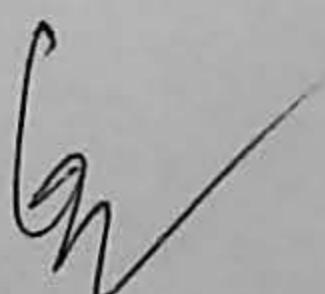
By Adv: Sri A. Sthalekar

O R D E R

Earlier, in September, 1997 the applicant, while working as Head Trains Clerk at Yamuna Bridge Station, was promoted and posted to Kota but he had, due to domestic reasons, decline the promotion and chose to remain in Yamuna Bridge Station, forgoing his promotion.

2. The applicant was all along under the impression that he has been shifted to the North Central Railway in view of Yamuna Bridge Station having been brought within the geographical jurisdiction of the said N.C.R. However, it was by a order dated 31-08-1999 of promotion cum transfer order to Kota Yard, Kota Division as Chief Trains Clerk in the pay scale of Rs 5,500 - 9,000/- that the applicant realized that he is still in the Western Railway Zone.

3. In fact there has been a vacancy in the post of Chief Trains Clerk in the said pay scale of Rs 5,500 - 9000 in the very same Yamuna Bridge Station, but the same has been filled up by posting one Shri N.M. Sarovar from Bharatpur, Kota Division Western Railway by means of order dated 25-05-1999, at his request for such a transfer on personal ground.

A handwritten signature in black ink, appearing to read 'Gh' followed by a stylized flourish.

4. The applicant not having complied with the transfer cum promotion order dated 31-08-1999 posting him as Chief Train Clerk at Kota Yard, he was again issued with a transfer order to the very same Kota Yard but not in the promotional post but as Head Trains Clerk in the scale of pay of Rs 5,000 - 8,000/- vide order dated 23-09-1999. Against the said order, the applicant moved a representation dated 28<sup>th</sup> September, 1999. The applicant had not moved from Yamuna Bridge Station and the authorities had advised the Station Superintendent of Yamuna Bridge Station to relieve him vide order dated 26-10-1999. Meanwhile the applicant having fallen ill was on medical leave.

5. The applicant has relied upon a number of policy decisions for freezing of posts at various zones at the time when new zonal railways were created; as to the issue of order dated 15-07-1997 creating the new NCR Zone etc., and also referred to a few O.As filed by certain affected employees who are similarly situated like the applicant and in whose case interim orders have been granted. It is under these circumstances, that the applicant has made the prayers, as extracted in para 1 above.

6. By an interim order the transfer order dated 23-09-1999 whereby the applicant had been

transferred had been stayed and the said interim order is still continuing.

7. The respondents have contested the OA. Their contention is that even today, Yamuna Bridge Station is under the zone of Western Railway. Other allegations such as illegal transfer of Respondent No. 5, Shri Savarkar etc., have all been denied by the respondents.

8. The applicant has filed the Rejoinder, in which he had reiterated his contentions and grounds as contained in the O.A.

9. At the time of hearing, none represented the applicant. In fact, as the counsel who represented the applicant later on had been incapacitated from prosecuting the case because of his engagement as a government counsel, the applicant was advised by order dated 17<sup>th</sup> March, 2005 to engage another advocate and the registered letter sent did not return undelivered. Thus, the case was perforce to be taken up for hearing under the provisions of Rule 15(1) of the CAT (P) Rules, 1987.

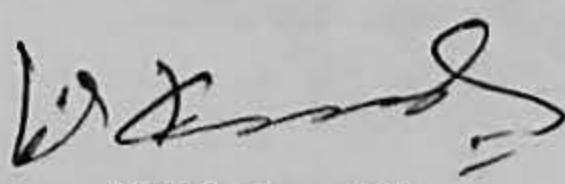
10. The matter is simple. Applicant had earlier declined his promotion to the post of Chief Trains Clerk as he wanted to remain at Yamuna Bridge

Station itself. His posting to Kota initially on promotion having been declined he was posted to the very same station but in the post he has been holding at Yamuna Bridge Station. This has been agitated to on various grounds, including the one that Yamuna Bridge Station has been brought within the geographical jurisdiction of NCR. This has been denied by the respondents. There is nothing to doubt about the geographical jurisdiction as spelt out by the Respondents as they are the authority to determine the jurisdiction. For the sake of one individual the respondents would not furnish misleading information. Thus, Yamuna Bridge Station, at least till the counter had been filed should be taken as having been within the zone of Western Railways only. It could be that even today, the same situation continues. If so, the applicant has to carry out the order of the higher authorities as nothing of his vested interest has been affected by such a move. It would be a different affair in case the zone had changed, in which event, inter zonal posting would imbalance the seniority position etc., The case of the applicant not as such, there is no case that has been made out by the applicant in resisting the transfer order to Kota. The OA is, therefore dismissed but with the following observation.

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11. The applicant has been functioning in the same station due to the interim order. It is not known whether the applicant has any school going children whose academic session would have by now commenced. However, as the applicant has been allowed to stay at Yamuna Bridge Station and as he must be continuing till now, interest of justice would be met in case he is allowed to continue till the end of the current academic session i.e. till 30<sup>th</sup> April, 2006 and if he is allowed to move thereafter, either in the same post as he was holding at the time of filing of the O.A. or if he has obtained certain promotion, in the promotional post. This does not however, mean that the respondents should necessarily post the applicant out. In case vacancy in the post held by the applicant as on date exists in the same or nearby place, the respondents may consider accommodating the applicant therein. What is pressed into service is that there is no vested right for the applicant to cling to the same station and it is the prerogative of the respondents to transfer the applicant.

12. With the above observation, the O.A. is disposed of and with no order as to costs.



Member (J)