

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1638 of 1999

Allahabad this the 6<sup>th</sup> day of January, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

1. Vijai Narayan Bhatnagar S/o Sri Kailash Narayan R/o Luxmi Darwaja, District Jhansi
2. Chandra Mohan Rai S/o Sri Ram Sewak, Resident of 285-Mulad Ali Compound, Sipri Bazar, Jhansi.
3. Sanjay Bharti S/o Sri R.C. Bharti, R/o Awas Vikas Colony, Jhansi.
4. Imtiyaj Rahman S/o Sri Nyaz Rahman R/o 742, Sagar Gate Bazar, Jhansi.
5. Amar Singh S/o Siri Mangal Singh, R/o Khati Baba, Jhansi.
6. Km. Sunita Jha, D/o Sri Bharat Bhushan Jha, Resident of 320 Nai Basti, Jhansi, District Jhansi.
7. Shyam Sunder S/o Ratan Singh, Resident of Sipri Bazar, Jhansi.
8. Suraj Singh S/o Ram Singh R/o Sipri Bazar, Nandanpura, Jhansi.
9. Surya Shukla S/o Sri B.S. Shukla, R/o Ras Bahar Colony, Jhansi.
10. Vishnu Sahu, S/o Sri Ram Gopal, R/o 360 Nagra Nainagarh, Jhansi, Prem Nagar.

By Advocate Shri R.K. Nigam

Applicants  
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1. Union of India through General Manager, Central Railway, Mumbai.
2. Divisional Railway Manager, Central Railway, Jhansi.

Respondents

By Advocate Shri G.P. Agrawal

O R D E R

By Hon'ble Mr.S.K.I. Naqvi, J.M.

The applicants, 10 in number, have come up under Section 19 of the Administrative Tribunals Act, 1985 to get quash the impugned order through which they have been transferred from one department to the other department of the Railways and have also prayed for an order to the respondents to allow the applicants to continue in the Commercial department with all benefits as they are previously getting.

2. As per applicants' case, they are working substantively in Group 'D', Class IV in Commercial department of Jhansi Division in which they have white collar channel of promotion to the post of First Class Coach Attendant, Number Marker, Return Corrier, Ticket Collector (Class III) <sup>hal</sup> Scale Porter and Commercial Clerks and their post is not transferable to the other department otherwise by exercise of option of the individuals.

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but the authorities took decision <sup>of</sup> their own and without asking for the option, the impugned order has been issued, which is against the service condition of the applicants and is not in accordance with the decision taken in P.R.E.M. dated 10.8.99. They have also pleaded that by this transfer, they get affected in future prospects of their service as well as in the seniority for promotion to higher rank. It has also been alleged that this transfer order is arbitrary on pick and choose basis, therefore, deserves to be quashed.

3. The respondents have contested the matter and filed the counter-reply.

4. Heard, the learned counsel for the parties and ~~have~~ perused the record.

5. The applicants have sought for the relief to quash the impugned order dated 15.9.99, copy of which has been annexed as annexure-1 pages 11 and 12 to the application, which are two lists of 35 persons each who have been transferred as Commercial surplus staff to C & W and S & T departments of Railways and thereby the impugned order affects 70 persons who have been declared as surplus in the Commercial department, out of whom 10 persons have filed this O.A. and during the course of arguments, learned counsel for the applicants has mentioned that the applicants no.4 and 5 namely Imtiyaj Rahman and Amar Singh have been

relieved from their posts in the Commercial department but have not joined ~~to~~ the department to which they have been transferred and they remained on sick list, whereas Shri Shyam Sunder-applicant no.7 and Surya Shukla-applicant no.9 have joined in the department to which they have been transferred. Now to get quash this impugned order, affecting 70 employees, most of whom joined the place of posting in compliance of their order, at the request of few dissatisfied employees, will disturb the whole channel of the scheme. It has specifically <sup>been</sup> mentioned in the counter-reply and pressed during arguments on behalf of the respondents that the applicants have been adjusted in the other departments by way of this impugned order of transfer as they have come in the category of Commercial surplus staff. Since a decision has been taken by the Central Railways and the staff has been earmarked as surplus one, it may not be possible to retain them at their present department. It has also been pleaded in para-7 of the counter-reply that the surplus staff was re-deployed will not get affected in the seniority and there is no loss of pay or grade but there is only change of designation and, therefore, they are not going to be adversely affected through this impugned order of transfer. It has also been mentioned on behalf of the respondents that the suggestion of P.R.E.M. through its minutes in the meeting held on 10.8.99

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cannot over-rules the decision of the Railway Board taken in accordance with rules and regulations in this regard.

6. With the above facts in view, it is quite evident that will not be proper to disturb the whole scheme affecting 70 persons only because it does not suit the few who have come up before the Tribunal and particularly when there is clear statement from the side of the respondents that this transfer of surplus staff will in no way affect their seniority, pay <sup>thereby</sup> or promotional avenues and accordingly the prayer of the applicants does not deserve to be allowed. The O.A. is accordingly dismissed. No order as to costs.

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Member (J)

/M<sup>2</sup> M./