

6A. 1018/99

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 8TH DAY OF DECEMBER, 2000

Original Application No.1114 of 1999

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

- 1. Manik Chand, S/o Shri Lala Ram
- 2. Kishori Lal, S/o Shri Mula
Both working as Diesel Helpers
at Agra Csntt Station in the newly
created Agra Division in the newly
created North Central railway.

Along with O.A.No.871 of 1999

Chandra Prakash Singhal,
S/o Sri lata Kundan Lal,
R/o Qr, No.L/104(C) Loco colony
Idgah,(M.G.)Agra

Original Application No.1212 of 1999

Sanjay, Son of Late Sri Raman Lal
R/o Jones Mill Krishna Colony
(Balmiki Basti) Jeevan Ki Mandi
Agra, posted in the office of
Senior Section Engineer, Carriage
and Wagon Depot, W.R.Agra Fort, Agra

Original Application No.1211 of 1999

Faiyaj Ali, son of Late Sri Ahmad Ali
R/o B/324 K, Dayal nagar Bogipura
Shahganj, Agra, posted in Senior
Section Engineer(C/W)Depot,W.R.Agra
Fort Railway Station, Agra

ORIGINAL APPLICATION No.1210 of 1999

Kunji Lal, son of Late Sri Ajudhi prasad, R/o
Nagla Latur Singh, Devree Road
Post Sadar Bazar, District Agra,
posted in the office of Senior Section
Engineer(Carriage and Wagon)
Agra Forte, Western Railway.

Original Application No.1214 of 1999

Ramesh Chandra son of late Sri Ajmeri
R/o 8/C-A Railway Colony,
Agra Forte, posted in the office of
Senior Section Engineer,C/W Depot
AGRA Forte Agra.

Original Application No.1213 of 1999

Brij pal, son of late Sri Nathi Lal
R/o L 104/B,Railway Colony
M.G.Idgah, Agra, posted in the
office of Senior Swxrion Engineer(C/W) Depot,
Agra Forte, Agra

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Original Application No.387 of 1999

Chandan Singh, son of Shri Giriraj
Singh, R/o Power House, Achchhnera,
District Agra.

Original Application No.386 of 1999

Har Narayan Singh, S/o Shri Sobaran
Singh, R/o power House, Achchhnera,
District Agra.

Original Application No.677 of 1999

Sukh Ram V., Son of Shri Vipattee
Ram, R/o Gautam Nagar, Yamuna
Bridge, City & District Agra.

Original Application No.676 of 1999

Rama Kant Sharma, son of Late
Shri Ram Sahai Sharma, R/o Railway
Qr.no.1-T/D, Railway Colony
Idgah City & District Agra.

Original Application No.329 of 1999

Madan Gopal Sharma, son of Shri Prakash Sharma
R/o Railway Power House Achchhnera
District Agra.

Original Application No.1061 of 1999

1. Mahavir Singh, S/o Shri Nawab Singh
2. Lalauni, S/o Shri Medhe
Borth working as Diesel Helpers at
Agra Cantt Station in the newly created
Agra Division in the newly created
North Central Railway)

Original Application No.1018 of 1999

1. Jagdish, son of Shri Moti lal
2. Man Singh, son of Shri Kundan Lal
3. Kalua, son of Shri Haria

All working as Diesel helpers at Agra Cantt
Station in the newly created Agra
Division in the newly created North
Central Railway)

original Application No.1017 of 1999

1. Mohan Lal, S/o Shri Puran
2. Ravindra Kumar, S/o Shri Sumer Singh
3. Rajendra Singh, son of Shri Bihari lal
4. Jai Ram Singh, S/o Shri Chandan Lal

All working as Diesel Helpers at Agra Cantt
station in the newly created Agra Division.

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Original Application No.1221 of 1999

1. Khalil Ahmad, s/o Mohd. Ismail Khan
2. Ram Din, S/o Shri Kade Din
3. Daru prasad, S/o Shri Sona Prasad

(All working as Diesel Helpers at Agra Cantt Station in the newly created Agra Division in the newly created North Central railway).

Original Application No.1569 of 1999

Kishan Singh, S/o Hambeer Singh
a/a 46 years, Diesel Helpers at Agra
Cantt in the newly created Agra Division
North Central Railway, R/o New
Janta Colony, H.No.63-B/689
Agra Cantt, Agra.

... Applicants

(By Advs: S/Shri Saumitra Singh & Prashant Mishra)

Versus

1. Union of India through the General Manager Central Railway(CR), Bombay V.T.
2. Divisional Railway Manager (DRM) Central Railway(CR) Jhansi Division, City & District Jhansi.
3. Senior Divisional Mechanical Engineer Central Railway(CR), Jhansi Division Jhansi.
4. Senior Divisional Personnel Officer, Central Railway(CR) Jhansi Division Jhansi.
5. Loco Foreman, Agra Cantt Station, Agra North Central Railway, Agra Division, AGRA.
6. Divisional Railway Manager(DRM) North Central Railway(NCR) Agra Division Agra.

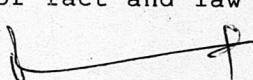
... Respondents

(By Adv: Shri Amit Sthalekar, P.Mathur

O R D E R (Oral)

(By Hon .Mr.Justice R.R.K.Trivedi, V.C.)

In this bunch of original applications, order transferring the applicants from one division to other division ~~have~~ ^{been} been challenged. The questions of fact and law involved are similar to

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all the cases which can be decided by a common order, against which learned counsel for the parties have no objection. OA.No.1114/99 shall be the leading case.

The facts in short giving rise to these applications are that the Ministry of Railway, Government of India vide order dated 30.4.1997 created six new zones for Indian Railways. The six zones mentioned in the order are:-

- (1) East Coast at Bhubaneshwar
- (2) North Central at Allahabad.
- (3) East Central at Hajipur
- (4) North Western at Jaipur
- (5) South Western at Bangalore
- (6) West Central at Jabalpur.

After the aforesaid zones were created Railway Board issued certain orders. The first order was of 26.9.1997. It has been filed as (Annexure 2 to the application.). The order reads as under:-

Sub:Creation of Group C & D Posts on re-organisation of Zones & Divisions.

"The strength of Group C & D staff in the new zones should be kept at the barest minimum and no further creation or transfer of such posts should be done till such time the geographical jurisdiction is decided and the items of work identified for transfer to New Zones kept established."

As per Directives of the Board the strength of Group 'C' & 'D' posts ~~are~~ to be frozen as on date. This is being done in view of the fact that the territorial jurisdiction of the new zones/divisions have not yet been finalised. Various representations are still being received in this Ministry on the above issue. Even the standing Committee in their Vth Report on reorganization of the Zonal offices in Indian Railways had minuted wide extracts of para 54 & 55 as under:-

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Another order of Railway board in this connection which is relevant is of 11.6.1999 which has been filed as (Annexure 10 to the OA). The letter reads as under:-

"The jurisdiction of new Divisions have already been communicated to all concerned vide Railway Board's letter referred above. For formation of these new divisions, some new sections from the adjoining divisions will eventually can be transferred to these new divisions. On such sections all the posts (all categories) should be frozened w.e.f. 25.1.99 and no change should be allowed in any case without consulting the Board, if, in case any change has already been statusquo should be restored taking 25.1.99 as the base."

The respondents however, passed transfer orders dated 11.11.1998, 22.2.99, 23.2.99, 19.8.99 and 25.2.2000 transferring applicants in these OAs from one division to other division and from one zone to another zone. Aggrieved by which the present applications have been filed.

Learned counsel for the applicant has submitted that in view of the Railway Board's direction dated 26.9.1997 and 11.6.1999 mentioned above, impugned orders of transfer could not be passed ^{as} before passing the order. Railway Board was not consulted, the orders are without authority. Learned counsel has also submitted that if the impugned orders of transfer are maintained, the interest of the applicants vis-a-vis their seniority and their service benefits are likely to be jeopardised. The Railway Board issued orders dated 26.9.1997 and 11.6.1999 only to protect the interest of the employees till the geographical area to the zones and division is finalised.

Shri Prashant Mathur and Shri Amit Sthalekar learned counsel appearing for the respondents on the other hand, submitted that the intention of the Board in issuing letters dated 26.9.1997 and 11.6.1999 was never to stop the regular transfer orders for which the authorities manning the divisions and zones are competent. The learned counsels have submitted that the directions to freeze is only regarding to the strength of the cadres of the various categories and not the continuance of a person on a particular post.

I have considered the rival submissions of the counsel for the parties. However, from close reading of the Railway board's letter dated 26.9.1997 and 11.6.1999 there remains no doubt that Railway Board's direction was to freeze all changes in all posts of all categories. The language used in the orders is so wide that it obviously includes the orders of transfer. The order dated 26.9.1997 is very clear in this respect that Railway Board intended to maintain status quo with regard to employees until the jurisdiction of the zones and divisions is finalised. The Board further directed that the changes may be however made with the consultation of the Board. In the present case there is no dispute that before passing the impugned orders of transfer Board was not consulted. This Tribunal vide order dated 1.11.2000 in OA 357/2000 has already taken the view that in view of the Railway Board's circular mentioned above orders of transfer could not be passed. Paragraph 7 of the order is very relevant which is being quoted here:-

"Considering all the aforesaid circulars and correspondences, it is evident that new North Central Zone and new Agra Division in North Central Zone are in transition. It, therefore,

does not appear to be appropriate that at such juncture the applicant should be transferred to the newly created zones/Divisions without obtaining his consent for his transfer. It is also evident from the aforesaid circulars that the question of determination of the seniority of the staff is also under consideration because it is maintained at divisional level. The possibility of his seniority from Agra to newly created division of Kota cannot be ruled out. Therefore, in my opinion the transfer of the applicant from Idgah Railway Station, Agra to Kota is not justified."

Similar view has been taken by the Tribunal in OA 588/2000 R.S.Lal Vs.Union of India and Others on 7.12.2000. there appears no reason to take different view in the present cases.

For the aforesaid reasons stated above these OAs are allowed. The orders of transfers dated 26.9.1997, 11.11.1998, 22.2.1999, 23.2.1999, 17.3.1999, 19.5.1999 and 9.6.1999 are quashed. However, liberty is given to the respondents to pass fresh orders in accordance with law after consulting the Board or if they are advised they may place the whole controversy before the Board for appropriate borders. Let a copy of this order be kept in each file.

There will be no order as to costs.

*Sd/-
J.C*