

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.324 OF 2000
ALLAHABAD THIS THE 09th DAY OF APRIL,2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Chhotelal,
aged about 40 years,
S/o Late Shri Pyare,
R/o House No. 113,
Mohalla - Dilejak,
Infront of Model
Junior High School,
Balmiki Colony,
Shahjahanpur.

.....Applicant

(By Advocate Shri R. Verma)

Versus

1. Union of India,
through the General Manager,
Northern Railway,
Baroda House,
New Delhi.

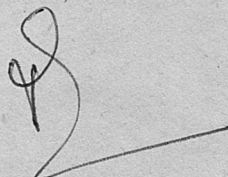
2. The Divisional Engineer,
Northern Railway,
Shahjahanpur.

3. The Section Engineer (P.Way),
Northern Railway,
Shahjahanpur.

.....Respondents

(By Advocate Shri P. Mathur)

.....2/-

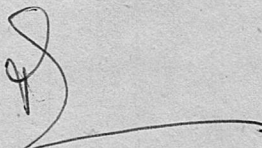


O R D E R

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

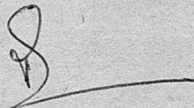
By this O.A. applicant has challenged the order dated 08.01.2000 (Page 16) whereby he alongwith number of other persons were directed to be spared on transfer as per seniority from Shahjahanpur to Bijnor. Applicant's name is at serial no. 174 of the seniority list attached with the said order. The grounds on which the applicant has challenged this order was that vide order dated 31.12.1996, applicant was ~~regularised~~ regularised as a Gangman and was posted at Dhampur (Page 22) within four months. Thereafter he was transferred from Dhampur to Sandila vide order dated 05.04.1997 (Page 23). From Sandila applicant had taken a mutual transfer with another employee foregoing his other benefits and ~~other~~ ^{at the} cost of ~~losing~~ his seniority by seeking transfer to Shahjahanpur which was allowed vide order dated 15.09.1999 (Page 25) and within four months this transfer has been issued, therefore, his sole grievance was that ~~once~~ ^{as} he had been granted transfer to Shahjahanpur due to his personal grounds on mutual basis he could not have been transferred out from Shahjahanpur to Bijnor within a short duration of four months.

2. The respondents have opposed this O.A. and have submitted that Gangman at Shahjahanpur had become surplus, therefore, they had to be posted out to ^{could be} other places wherever the work was available and they / adjusted. ^{probably} If the respondents had taken this stand alone ~~proportionally~~ there was no occasion for us to interfere in the matter because




respondents have also stated in the counter affidavit that no person junior to the applicant was retained at Shahjahanpur but confusion has been created by the respondents themselves by filing a CA in which they are themselves not sure as to what ^{B.R.B.} was their stand because in one paragraph they have stated that applicant ^{B.R.B.} was declared surplus as Gangman, therefore, ~~they~~ ^{he} had to be re-deployed but - ~~their stand~~ while in other paragraph namely in para J of the CA, they have stated that it was considered best in the interest of Railway Administration to utilise the aforesaid surplus Khalasi against the post of Gangman by re-deploying them. From this averment it is not clear as to whom the respondents are referring to because applicant ^{is} admittedly/Gangman and not Khalasi. If certain Khalasi had become surplus who were required to re-deployed against the post of Gangman then it is not explained as to why the applicant was re-deployed. There is definitely some confusion some where in the reply given by the respondents and the benefit goes to the applicant for their CA which has created the confusion. Another O.A. was filed by ^{some} / of the persons who were similarly transferred by the same order and the Tribunal in its order dated 06.07.2001 in O.A. No.248/00 had held that in view of the position as explained above impugned transfer order appears to be mis-conceived as such the same is quashed.

3. Applicant's counsel has placed reliance on this judgement. I had categorically put a question to the respondent's counsel, ~~that~~ whether this judgement was challenged in the higher court or has been implemented.



been I have informed by the counsel *for respondents* that this judgement has been implemented and fresh orders have been passed with respect to the applicant, in that case, which means that the findings recorded by the Tribunal ~~that~~ that the CA is mis-conceived has not even been challenged by the respondents. We cannot give ~~two~~ two different orders ~~passed~~ against the same impugned order. Therefore, in the instant case also, in view of the orders already passed in the aforesaid O.A., the impugned order is quashed and set aside as far as it related to the applicant in this O.A. However, liberty is given to the respondents to pass fresh orders in accordance with the work requirement and staff position available. If the applicant is to be transferred out on the ground that he had become surplus as a Gangman in Shahjahanpur then his contention cannot be upheld that once he was transferred to Shahjahanpur on his own request, he could not be transferred *out to some other place as no one can be kept without work.*

4. The O.A. stand disposed of accordingly with no order as to costs.


Member-J

/Neelam/