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HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A. applicant has challenged the order dated 29.08.2002 whereby respondents had ordered to utilise the applicant on the post of TLC. He has prayed that applicant be allowed to be kept on the existing special supernumerary post till he is permanently absorbed against a suitable alternative post as per his pay and grade, and that he be retained at Allahabad.

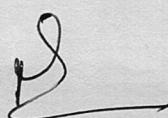
2. Grievance of the applicant in this case is that he was working as Senior Goods Driver in the Scale of Rs.5500-9000, when he was declared medically unfit on 01.05.2001 and informed that till his case for absorption on alternative post is decided he will be treated on leave due (Page 8). However, thereafter respondents issued notice dated 29.08.2002 whereby applicant was found suitable for being utilised as Crew Controller temporarily and was posted at TLC.

3. According to the applicant's counsel, applicant could not have been transferred out of Kanpur and until a suitable alternative post is found for the applicant, he had to be continued in the Special Supernumerary post at Allahabad only. For this purpose he relied on para 1307 to 1315 of IREM Vol I extract of which is annexed with this petition on page 10.

4. Respondents, on the other hand, have submitted



that applicant, who was Goods Driver at Allahabad, was medically de-categorised on 01.05.2001 and his case was put up for alternative job as per his present pay and grade. As a result of screening held on 17.09.2001 of declassified staff, his first posting order for Crew Controller/Allahabad was issued vide order dated 08.10.2001. On 29.08.2002 he was posted as TLC at Allahabad on the post of Crew Controller but on his own request applicant was posted as Crew Controller CNB vide order dated 27.11.2002, but he did not turn up to join either his first posting as Crew Controller neither as T.L.C. Allahabad nor as CTLC, Allahabad. He has not even joined as Crew Controller at CNB and is still absenting. Applicant is not joining any post, as a result of which his salary cannot be made. It has wrongly been pleaded by applicant that he was not given any station because posting orders were to be issued by the Sr./DEE/RSD/ALD as per the requirement at any station. As far as the paras of I.R.E.M. referred to, by the applicant are concerned, they have explained that attempts should be made to absorb medically declassified candidates not only within the Division or Department but in other Division or Department as well. They have further submitted that the post of TLC is, in fact having the same work because Goods Driver is Feeder Cadre for the post of T.L.C.. Applicant only wants to draw salary without doing any work that is why he is making all . . . . .



kinds of excuses. Counsel for the respondents has invited our attention to the letter written by applicant himself wherein he had requested that he should be posted as Crew Controller, Allahabad as he has already worked as a Crew Controller (Page 15). They have thus, submitted that there is no merit in the O.A. and the same may <sup>be</sup> accordingly dismissed.

5. We have heard both the counsel and perused the pleadings as well.

6. Once a person has been declared medically de-categorised naturally respondents have to find out an alternative post for the person concerned in some <sup>event</sup> other post where he can be adjusted, therefore, in keeping with the experience of applicant he was posted in TLC Allahabad but applicant himself gave in writing that he may be appointed as Crew Controller at Allahabad. The respondents however, posted him at Kanpur as Crew Controller. The contention of applicant that he should be posted only against supernumerary post and cannot be transferred out, cannot be accepted because after all he has to be adjusted wherever vacancy is available and once applicant had himself given in writing that he wants to be posted as Crew Controller he cannot have any grievance <sup>simply because it is at Kanpur.</sup> as crew controller at Kanpur. Once applicant has been given posting as per his own choice as Crew Controller, applicant ought to have joined the post and then should have made any grievance by filing

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a representation. He cannot sit at home on his own inspite of having been posted in some other alternative post and claim salary by ~~sitting idle~~. Since respondents have already offered him an alternative post which applicant has not joined of his own choice, we do not think, this case calls for any interference. Accordingly, the same is dismissed with no order as to costs.



Member-A



Member-J

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