

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

DATE OF ORDER : 5.10.1999

O.A.NO. 286/1999

1. Divisional Secretary, Northern Railway Men's Union, Bikaner Division through Dinesh Kumar Gaur S/o Shri Laxmi Narain Gaur, Secretary, working as Guard Northern Railway, Bikaner Station R/o Railway Quarter Near Malgodam, Bikaner Station, Bikaner.
2. Shri Hari Ram Suthar S/o Shri Shree Lal, Assistant Station Master, Northern Railway, Bikaner East Station R/o Near Shri Ram Gate, Sutharon-Ki-Bari, Guwar Gajner Road, Bikaner.
3. Shri Jalim Singh S/o Shri Devi Singh, Assistant Station Master, Northern Railway, Bikaner East Station R/o Railway Quarter, Near Masjid, Near Loco Shed, Lalgarh, Bikaner.
4. O.P. Singh S/o Shri Ram Anuj Singh, Station Superintendent, Gadhwala Railway Colony, Gadhwala, Bikaner.
5. Om Prakash Yadav S/o Shri Sohan Lal Yadav, Assistant Station Master, Northern Railway, Gadhwala, R/o Mukta Parsad Colony, Bikaner.
6. Om Prakash Saxena S/o Ratan Lal, Assistant Station Master, Northern Railway Gadhwala (Bikaner) R/o Railway Colony, Near Reservation Office, Bikaner.

.....APPLICANTS

VERSUS

1. Union of India through General Manager, Northern Railway, Headquarters, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Divisional Office, Bikaner.
3. Divisional Personnel Officer, Northern Railway, Divisional Office, Bikaner.

.....RESPONDENTS

Mr. Bharat Singh, Advocate, present on behalf of the applicants.

CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

PER MR.A.K.MISRA :

The applicants have filed this O.A. with the prayer that the Duty Roster issued under letter dated 9.9.99 (Annex.A/1) be declared illegal and the respondents be directed to issue Duty Roster keeping inview the Railway Board's order as contained in NRPS No. 6184 and in accordance with the provisions of Section 130 (B) of Indian Railway Act, 1989.

2. We have heard the learned counsel for the applicant on the point of admission. He has cited 1998 SCC (L&S) 1578 and 1995 Vol. 29 ATC 257 and has argued that the roster is in violation of the safety norms as fixed by the Railways from time to time by their various circulars, therefore, the same is required to be quashed and for that reason notices be issued to the respondents. Till the respondents file their reply, the operation of roster be stayed.

3. We have considered the arguments and the rulings cited by the learned counsel for the applicants. As against fixing of duty hours as per the norms the applicants have not represented to the higher authorities for redressal of their grievance. Had they represented in the matter, their grievance would have been looked-into by the authorities concerned. However, on going through the chart attached to the letter Annex.A/1 we find that average period of one week duty hours is shown as statutory 75 hours and rostered working hours have also been shown as 75. Therefore, there seems to be no excess fixation of duty hours. In the chart hours of rest have also been shown in column 7, 13 and 19 respectively for various categories of employees. Weekly rest has also been indicated once in a week as per the rotation. Therefore, in our opinion, the roster seems to be in order. It is alleged by the applicant that the employees mentioned in

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Annex A/1 are directly concerned with the operation of trains and consequently are directly responsible for safe running thereof. If no proper intermittent rest is given to the concerned employee the safety of trains is at stake but we are not impressed by this argument. The rest has been fixed by the Divisional Personnel Officer and we have no reason to conclude that while fixing the working hours as per roster he has over-looked the safety norms etc. We are also not inclined to issue notice to the respondents because fixing duty hours as per roster is more of an administrative matter than anything otherwise. In view of this, we do not propose to interfere in day to day working of the respondents.

4. So far as the rules propounded in the cited rulings, their cannot be two opinions but rule is propounded as per the facts and the controversy involved in such cases. These two rulings are factually different and, therefore, the rule propounded therein cannot help the applicant in the present set of facts and the controversy they have raised before us.

5. In our opinion, the present case is not fit for issue of notice to the respondents. The O.A. is, therefore, dismissed in limine.

Gopal Singh

(GOPAL SINGH)
Adm. Member

A.K. Misra

(A.K. MISRA)
Judl. Member

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mehta