

(C)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Decision ; 09.04.2002

O.A. No. 303/2001.

Laxmi Narayan son of Shri Kishore Lal, aged about 47 years, resident of Railway Quarter No. L/35, Railway Colony, Abu Road, Western Railway, at present employed on the post of Chief Loco Inspector (Fuel) in the Diesel Shed, Abu Road, Western Railway.

... APPLICANT.

v e r s u s

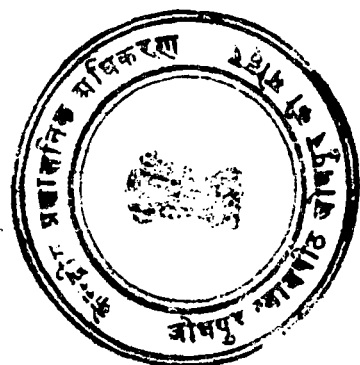
1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.

... RESPONDENTS.

Shri B. Khan, counsel for the applicant.
Shri Kamal Dave, counsel for the respondents.

CORAM

Hon'ble Mr. Justice O. P. Garg, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.



: O R D E R :
(per Hon'ble Mr. Justice O. P. Garg)

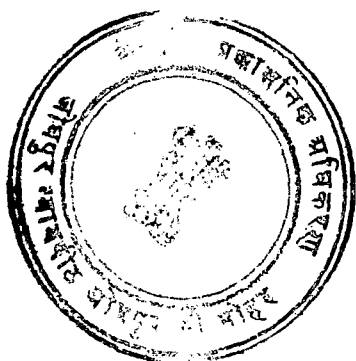
By means of this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has claimed the following reliefs :-

"(i) That the impugned order dated 26.9.2001 Annexure A/1, declaring him as not eligible for posting as CLI etc., passed by the 1st respondent, and all other subsequent consequential order thereof, if any passed, may be declared illegal, without jurisdiction and the same may be quashed and the applicant allowed all consequential benefits.

(ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(iii) That the costs of this application may be awarded."

2. A scheme was introduced by the respondents for filling up the post of Loco Running Supervisors. It was issued on 11.12.1992 (Annexure R-1), by Headquarter Office, Churchgate, Bombay. Paragraph 8.3 of Annexure R-1 provides that any existing Loco Inspector belonging to non-running side shall be repatriated to his parent cadre and adjusted on maintenance side in any equivalent capacity according to his seniority. Consequently it was ordered on 26.09.2001 (Annexure A-1), that since the applicant originally belonged to maintenance side, is not eligible for posting as CLI. He was consequently posted as CPCR/CCR Grade Rs. 7450-11500. Shri B. Khan, learned counsel for the applicant, pointed out that though the applicant belongs to maintenance side, an exception was made in his case by the Headquarter Office of Western Railway, Churchgate, Bombay, by order dated 27.03.1999 (Annexure A-4) and therefore, the posting of the applicant as CPCR/CCR is not justified.



3. Shri Kamal Dave, learned counsel for the respondents pointed out that pursuant to the order dated 23.11.2001 issued by the General Manager (Establishment) Churchgate, the applicant has been posted by the Divisional Office, Ajmer, from Abu Road to Ajmer, and that he has been relieved. It was further brought to the notice of this Tribunal that the applicant had not joined the post to which he has been transferred from Abu Road. The applicant has not challenged the order of transfer dated 23.11.2001 and

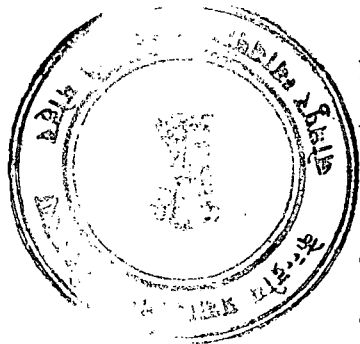
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is continuing on leave without joining at Ajmer.

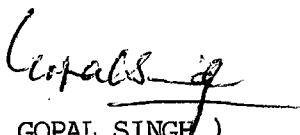
4. The applicant cannot have a vested right to continue at Abu Road. He is holding a transferable post. It is a common knowledge that transfer is one of the incidents of service. The applicant has already been at Abu Road since the year 1993 and has completed more than eight years of his posting there. He has been transferred in the same division. The applicant has to comply with the order of transfer. He does not have any indefeasible right to continue as CLI.

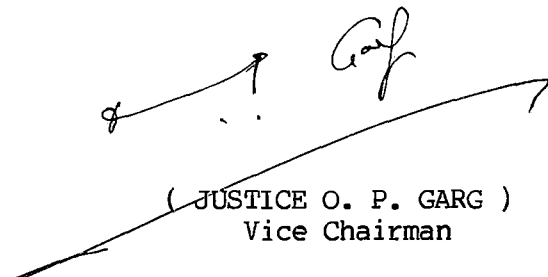
5. Shri B. Khan, learned counsel for the applicant, pointed out that the applicant is in occupation of an official quarter at Abu Road and since he has been transferred in the mid of the academic session, he may be permitted to continue in the quarter in question at Abu Road till the examinations are over.



6. The applicant is not entitled to the relief claimed. The Original Application is accordingly dismissed without any order as to costs.

7. However, it is directed that the applicant shall be permitted to occupy the official quarter at Abu Road till 31.05.2002. He shall handover the vacant possession of the quarter in question by the forenoon of 01.06.2002, failing which, the respondents shall be entitled to recover the penal rent/damages from the applicant according to the rules.


(GOPAL SINGH)
Adm. Member


(JUSTICE O. P. GARG)
Vice Chairman

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Part II and III destroyed
in my presence 10.11.14
under the supervision of
section officer as per
order dated 10.11.14

Section officer Record