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Date of Order : 22.10.2001.

O.A.NO. 290/2001

Maga Ram S/o Shri Kirta Ram aged 30 years, R/o Village Balera, District Jalore, presently posted as Head Clerk C/o Section Engineer Electric, Northern Railway, Samdri, District Barmer.

.....Applicant.

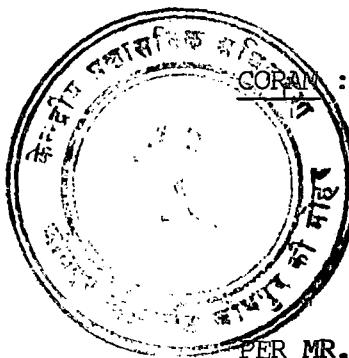
VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Jodhpur.
3. The Divisional Electrical Engineer, Northern Railway, Jodhpur.

.....Respondents.

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Mr. R.S.Saluja, counsel for the applicant.



CORAM :
HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER MR.GOPAL SINGH :

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, Maga Ram, has prayed as under _;

"(A).That the impugned action of the respondent of insisting upon the Applicant to perform the work of Store Clerk in addition to the work of Head Clerk i.e. the post which he is holding, may kindly be declared illegal and set aside;

(B) That the respondents may kindly be restrained from marking Applicant absent on account of his refusal to work as Store Clerk, a post which he is not holding;

(C) If any detrimental action is taken by the respondents annoyed with aforesaid refusal by the Applicant then the same may kindly be declared illegal;

(Signature)

(D) Any other direction/relief/order may kindly be passed in favour of the Applicant, which may be deemed just and proper under the facts and circumstances of the case;

(E) Cost of this Application may kindly be awarded with all consequential benefits."

2. By way of interim relief, the applicant has prayed for a direction to the respondents to permit him to perform the duties of the post of Head Clerk and not to mark him absent on account of not performing the duties of the post of Store Clerk.

3. Applicant's case is that he was appointed in the respondent - department on the post of Office Clerk on 16.7.1990 by earning various promotions. He is presently holding the post of Head Clerk. After 1996, the respondents have started entrusting the work of Store Clerk also to the applicant in addition to his charge of the post of Head Clerk. This problem has aggravated since year 2000 on account of surrendering the post of Store Clerk by the respondents. The applicant has also suffered punishment of stoppage of 15 Passes and 20 PTOs for not discharging the duties of Store Clerk properly. The punishment has since been reduced to censure in appeal. The contention of the applicant is that the post of Store Clerk is totally an independent post and is not a feeder post to the post of Head Clerk and in the circumstances, the applicant has refused to perform the duties of a Store Clerk. He has also submitted a representation in this regard on 16/18.8.2001 to the authorities and response to the same is still awaited. The learned counsel for the applicant has also relied upon the judgement of Hon'ble the Supreme Court in P.K.Chinnasamy Vs. Government of Tamil Nadu and Others reported in AIR 1988 SC 78.

4. We have heard the learned counsel for the applicant and perused the record of the case carefully.

5. It is seen from letter dated 23.10.2000 placed at page No. 21 of the O.A. that the respondent-department has been considering the right sizing

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of the manpower on Railways and therefore, it has been ordered that each of the ministerial staff at Jaisalmer, Samdari and Barmer, shall henceforth, lookafter the work of both the seats i.e. Establishment and Stores. It has also been stated in this letter that this has already been done for years together at Jaisalmer but, there is a slight confusion at Samdari subsequent to surrendering the vacant post of Clerk at Samdari. In the light of this letter, the applicant has been asked to lookafter the work of Stores also. The judgement cited by the applicant deals with a case where an officer was allowed to continue on a post but was not provided any work though, he was paid his pay regularly from the consolidated funds. In those circumstances, Hon'ble the Supreme Court directed the State Government to give appropriate posting to the applicant and once he is given such posting, he must be assigned normal official work to be discharged by him. The facts of the case in hand are distinguishable from the case cited. Here, the applicant is refusing to discharge additional responsibilities assigned to him, thus, we are of the view that the judgement cited by the learned counsel does not come to his rescue. If the Tribunal allows such prayers, we are of the view that it will create indiscipline and chaos in the smooth functioning of the Government and, therefore, we are not inclined to help the applicant in creating indiscipline. It is also seen that the applicant has submitted a representation in this regard on 16/18.8.2001 and this Application has been filed on 11.10.2001, within two months of submission of the representation. The applicant has not waited for the reply from the respondents to his representation. In that view of the matter, this Application is premature and can be dismissed on this count alone.

6. In the light of above discussion, we are firmly of the view that this is not a fit case for our interference. Accordingly, we pass the order as under :-

"The Original Application is Dismissed."

Gopal Singh
(Gopal Singh)
Adm. Member

Justice B.S.Raikote
(Justice B.S.Raikote)
Vice Chairman

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R. C.
Bhagat Singh
for R. S. Saluja

Part II and III destroyed
in my presence on 22.5.02
under the supervision of
Section Officer () as per
order dated 13/3/2002

NGM
Section Officer (Record)

Copy for Jagat Singh ORK
TJS Annex sent to R 1 to R 3
1/10/2001
Vijaypal 483 to 485
Dec 31/10/2001

AD front
R 1 to 3
Jagat Singh

AD front
R 1 to 3
Jagat Singh