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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Original Application No. 289/2004

Date of order: 15th February 2006

CORAM:

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER

Gyarsa s/o Badlu Ram R/o Village Rajiyala, Tehsil and District Rewari (Haryana), presently working as Helper – Khalasi, under the Section Engineer, Signal-II, North West Railway, Rewari.

....Applicant.

Mr. Arjun Purohit, counsel for the applicant.

VERSUS

1. Union of India through – General Manager, North-Western Railways, Jaipur.
2. The Divisional Personnel Officer, N.W. Railways, Bikaner.
3. The Assistant Personnel Officer, North-Western Railways, Bikaner.
4. The Divisional Railways Manager, N.W. Railways, Bikaner.

.....Respondents.

Mr. Salil Trivedi: Counsel for the respondents.

ORDER (oral)

Shri Gyarsa has filed this Original Application with the following prayer:-

" The respondents be directed to act on the option got exercised from him and to transfer back the applicant to Bikaner Division with all consequential benefits, whatsoever, with effect from the date he was arbitrarily transferred from Bikaner Division to Jaipur Division against his option for Bikaner Division.

2. With the consent of learned counsel for both the parties, the Original Application was heard for final disposal at the stage of admission. I have accordingly heard the elaborate arguments advanced at the bar and carefully perused the pleadings as well as records of this case.





3. The brief facts of this case, as pleaded by the applicant indicate that the applicant submitted certain option for his transfer to remain in Bikaner Division. The option was necessitated since there was a divisionalisation and a new Zonal Headquarters was established at Jaipur w.e.f. 01.10.2002. The applicant at the relevant time was working at Rewari, which happened to fall within the jurisdiction of Jaipur Division instead of erstwhile Bikaner Division. Certain correspondences were made in the matter apprising the authorities that the applicant had submitted his option for Bikaner Division but still he was kept in Jaipur Division. The applicant was also informed vide order dated 19.09.2003 indicating that the applicant was already transferred to Jaipur Division vide letter dated 27.06.2003. The applicant seems to become wiser when he came to know that certain trade test was being conducted for further promotion in Bikaner Division. He insisted for consideration of his candidature for the same.



4. The respondents have contested the case and have filed a detailed reply to the Original Application. It has been categorically indicated that the applicant never opted for Bikaner Division and even a list to this effect containing the particulars of candidates opted for Bikaner Division has been published vide Annexure R/2 dated 25.05.2005. Since the applicant has not submitted his option for Bikaner Division, the applicant came to be transferred to Jaipur Division and the question of sending him back to Bikaner Division did not arise.

5. Both the learned counsel for the parties have reiterated the facts and grounds mentioned in their respective pleadings as noticed above.

The applicant was given many opportunities to produce the copy of the

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option alleged to have been submitted by him for remaining in Bikaner Division. Nevertheless, the learned counsel for the applicant has expressed his inability to make available the same. On the other hand, the learned counsel for the respondents has submitted even the basic order by which the applicant came to be transferred to Jaipur Division remains unchallenged and the Annexure A/1 is the order by which reply was given to the applicant and the same has not been challenged. Therefore, the applicant cannot get the relief claimed in this O.A.

6. I have considered the rival submissions put forth on behalf of both the parties. As far as the material facts of this case are concerned, there is hardly any quarrel. Admittedly, the applicant has not been able to produce any option, which was alleged to have been submitted by him. The consistent stand of the respondents has been that after considering the rules in force, the applicant has been allotted Jaipur Division and for that purpose transfer order as well as a consolidated notification have been issued, which remain unchallenged. The applicant now cannot take a U turn and claim benefits in Bikaner Division to which he does not belong. A bare reading of the relief clause indicates that a direction has been sought to the respondents to act on the option got exercised from him but unfortunately no copy of option has been produced and it is next to impossible to grant such relief in absence of the same. I am also impressed with the submissions of the learned counsel for the respondents that the basic orders by which the applicant came to be transferred to Jaipur Division has not been challenged. This is so because the respondents themselves have acted strictly as per the rules in force and it might as well be that the applicant had opted for



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Jaipur Division or by implication deemed to have opted for Jaipur Division. There is always a presumption in favour of administration that it exercises powers in good faith and for public benefit. The burden is on the individual to produce sufficient material to suggest otherwise and it is not easy to discharge the same. In this case, nothing as such has been proved. In this view of the matter, the action of the respondents cannot be faulted with.



7. In the premises, the Original Application sans merits and the same fails and stands dismissed with no order as to costs.

J K Kaushik
(J K KAUSHIK)
JUDICIAL MEMBER

Kumawat

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22/12/06

Part II and III destroyed
in my presence on 03/4/14
under the supervision of
section officer () as per
order dated 31/01/14

Section officer (Record)

which copy of
order sent to
get on 24/2/06
sent back &
placed in part

~C~
H

Copy of order sent to
applicant by Speed post
Regd AD vide no 16
dt 24/2/06