

(25)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

Original Application No. 157/2008

Date of order: 30.07.2008

HON'BLE MR. JUSTICE A.K. YOG, JUDICIAL MEMBER.

Girdhari S/o Shri Gheesa, aged about 52 years, R/o Railway Quarter No. L-5 A, Near Running Room, Railway Colony NWR, Marwar Junction, District Pali (Raj.). Presently working on the post of Key-man under Senior Section Engineer (P. Way), NWR, Sojat Road, District Pali (Raj.).

...Applicant.

Mr. S.K. Malik, counsel for applicant.

VERSUS

1. The Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Personnel Officer, NWR, Ajmer Division, Ajmer.
3. The Assistant Divisional Engineer, NWR, Sojat Road, District Pali (Raj.).
4. The Senior Section Engineer (P. Way), NWR, Sojat Road, District Pali (Raj.).
5. The Ganesh s/o Shri Mula, Gangmate C/o Senior Section Engineer (P. Way), NWR, Auwa Railway Station, District Pali (Raj.).

...Respondents.

ORDER

[Per Mr. Justice A.K. Yog, Judicial Member]

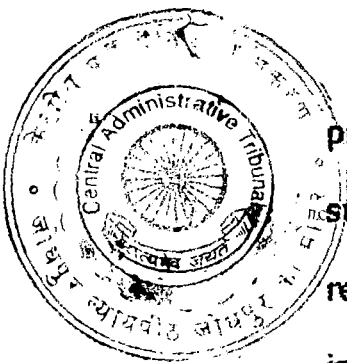
Heard Shri S.K. Malik, Advocate, appearing on behalf of the applicant / Girdhari.

Through the above - titled Original Application No. 157/2008 - Girdhari vs. Union of India & Ors. - the Applicant seeks to challenge impugned order of 'Transfer on Promotion' dated 15th July, 2008 (Annex. A/1) issued by SSE/PW/SOD posting him at 'Guriya' / Gang No. 15 superseding initial



transfer / posting order dated 02nd July 2008 (Annex. A/4) issued by the Assistant Divisional Engineer, NWR, Sojat Road (where under applicant was posted at Auwa / Gang No. 8).

Learned counsel for the applicant referred to the representation dated 05.04.2008 (Annex. A/3) submitted by the applicant requesting for accommodating him at Auwa / Gang No. 8 and his application dated 15th July, 2008 (Annex. A/5) and submitted that in view of the illness of the wife of the Applicant who require medical treatment and also in the interest of studies of his children (as shown in the notice dated 17.07.2008 (Annex. A/6) sent through Advocate and argued that the Applicant may be kept at 'Auwa' and also that SSE/PW/SOD who is subordinate to the Assistant Divisional Engineer (who had passed initial Transfer Order dated 02.07.2008 - posting him at 'Auwa', and thus not competent to issue impugned order (posting him at Guriya). In support of his argument, he placed 'Schedule of Powers "Part-A" (Establishment Matters)'.



Learned counsel for the applicant submitted that under prevailing circumstances, the applicant was constrained to submit application dated 15th July 2008 (Annex. A/5) indicating refusal to accept transfer on promotion. Apparently, applicant is not expected to appreciate of 'drafting' and it can not be read in exclusion of his request to be posted at 'Guriya'.

It is being contended that the applicant is not in a

[Signature]

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position to get copy of letter No. 1025/12 Vol. 7, dated 10.07.2008 said to be issued by the Assistant Divisional Engineer, NWR, Sojat Road (referred to above in impugned order dated 15th July 2008 / Annex. A-1).

Considering the above, I dispose this Original Application finally at the Admission stage without issuing 'Notice' and/or calling counter-affidavit from the Respondents.

Initially the Assistant Divisional Engineer, NWR, Sojat Road, presumably accepting the request of the applicant, posted him at Auwa / Gang No. 8 vide order dated 02.07.2008 (Annex. A/4). The change of place vide impugned order dated 15th July, 2008 (Annex. A/1) - within a short span of time (requiring the applicant to join at Guriya / Gang No. 15) cannot be normally appreciated at this stage.

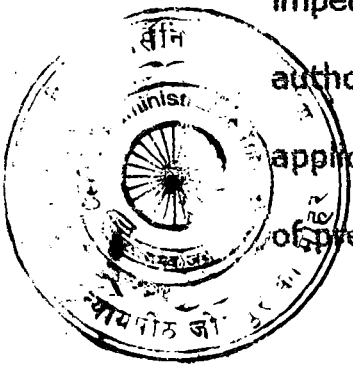
In view of the above, I direct the applicant to file a certified copy of this order along with complete copy of this O.A. (with all annexures) and additional representation (as he may be advised) within two weeks from today and the concerned competent authority / respondent No. 3 - Assistant Divisional Engineer, NWR, Sojat Road, District Pali, who shall consider the said representation/s as per relevant statutory provisions, office memorandum, its circulars, etc. adopting a pragmatic / compassionate approach and sympathetically evaluating the request of the applicant on humanitarian personal grounds. The said authority shall pass a reasoned

*[Handwritten signature]*

and speaking order keeping in mind the above observations, within a period of four weeks of receipt of certified copy of this order (if so, as stipulated and contemplated above); decision taken shall be communicated to the applicant forthwith.

It is further directed that the impugned transfer order dated 15th July, 2008 (Annex. A/1 to the O.A.) shall be kept in abeyance (to the extent it concerns the Applicant) and the same shall abide the order/decision of the Respondents taken on the above referred representations, as contemplated above.

It is further clarified that this order shall not be treated as impediment before any of the respondents / concerned Railway authorities to pass fresh orders to the extent it relates to the applicant for adjusting the applicant at Auwa or any other place of preference of the applicant, if possible.



Original Application No. 157/2008 stands finally disposed of subject to the above directions.

No order as to costs.

[A.K. YOG]
JUDICIAL MEMBER

Kumawat

Part II and III destroyed
in my presence or D. J. W.
under the supervision of
Section officer (S) as per
order dated 19/8/2014
[Signature]
Section officer (Record)

Rec Copy of order
[Signature]
S. K. Malik
Adv
01/8/08

No. 64. to 68.
Dt. 05.8.8.