

(A/7)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 198/2011

Date of decision: 05/09/2011. *RL.*

**CORAM: Hon'ble Dr. K.B. SURESH, Member (J) &
Hon'ble MR. SUDHIR KUMAR, MEMBER (A)**

1. All India Station Masters Association, North West Railway, Bikaner-Branch Churu, Branch Office Railway colony, Bikaner Through its Secretary.

2. Munishi Khan S/o Shri Inayat Khan, Secretary, All India Stations Masters Association, Branch office, Churu, Aged about 52 years, Resident of Ward No.30, Aguna Mohalla, Churu and Working as Assistant Station Master Aslu, District-Churu (Rajasthan)

..... Applicants

Mr. Shambhoo Singh, counsel for the applicant.

Versus

1. Union of India, through, General Manager, Jaipur.
2. Divisional Railway Manager, North West Railway, Bikaner.
3. Senior Divisional Officer, North West Railway, Bikaner.

..... Respondents

Mr. Salil Trivedi, counsel for the respondents.

ORDER

Per Sudhir Kumar, Member (Administrative)

1. This application has been filed by All India Station Masters' Association, North Western Railway, Bikaner Division, Branch Churu, through its Secretary, who himself is the second applicant of this case, and is posted as Assistant Station Master, Aaslu, District- Churu of Rajasthan.

2. When the case first came up before the Tribunal on 7.7.2011, notices were ordered to be issued to the respondents. On the next date of hearing on 15.7.2011, learned counsel for the respondents appeared

RL.

and opposed the case being heard by this Tribunal on the ground of want of jurisdiction of this Tribunal. Therefore, detailed arguments on the point of jurisdiction were heard and concluded, and the order was reserved.

3. While applicant No.2 is an individual, it has not been stated anywhere as to how many affected persons does the applicant No.1 Association represent for the purpose of this case. It was mentioned during arguments that the members of the applicant's Association are working on the posts of Station Masters/ Assistant Station Masters in Bikaner Division of the North Western Railway. The number of such members of the applicant's Association who are seeking relief from the Tribunal through this OA was not mentioned either in the O.A., or during the arguments.

4. The applicant's Association, and applicant No.2 himself personally, are stated to be affected by the impugned order dated 8.6.2011 (Ann.A-1) passed by the Sr. Divisional Personnel Officer (Sr.DPO), Bikaner, regarding change of classification of Station Masters/ Assistant Station Masters working at Juharpura and Depalsar Railway Stations, in whose case classification has been changed from "continuous" to "essentially intermittent", and the modified roster has been ordered to be issued accordingly. The case of the applicants is that the respondents are in the process of changing the roster of all the Station Masters from Bikaner to Ratangarh, and have also changed the roster of the Station Masters from Bikaner to Sadulpur Via Ratangarh, and all this has been done without making proper job analysis, and the repeated applications submitted by him under RTI Act, by Ann.A-5 dated

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18.5.2011, and by Ann.A-6 dated 20.5.2011, have remained unanswered, and the information has not been provided to him. The applicants have stated that the impugned order Ann.A-1 has been passed illegally and contrary to the provisions of law, circulars of department, and also against the policy and the rules framed regarding changing of classification on the basis of job analysis conducted alongwith Central Labour Enforcement Officer etc. It has also been stated that ~~the~~ certain items of work which the Assistant Station Masters are required to perform have not at all been taken into account under the Railway Servants (Hours of Employment) Rule, 1956. The applicants have therefore sought for Ann.A-1 to be quashed, and for the respondents to be directed to produce job analysis reports in respect of Station Masters of all the Stations falling along the stretch Bikaner to Sadulpur Via Ratangarh Station, and in particular Aaslu Railway Station, and had further prayed that respondents be directed not to change the roster of Station Masters and Assistant Station Masters working on the concerned stretch of the Railway.

5. Learned counsel for the respondents on the other hand pointed out that the hours of work and the period of rest of railway servants are now governed by "The Railway Servants (Hours of Work and Period of Rest) Rules, 2005". He further pointed out that rule 3 (2) and Rule 4 of the said rules prescribe as follows:-

"CLASSIFICATION OF EMPLOYMENT AND HOURS OF WORK"

3. "Prescribed authority to classify the employment of railway servant".

(1).....

(2) A copy of every declaration made by the prescribed authority under sub-rule (1) shall, as soon as many be, sent to

the Regional Labour Commissioner concerned and, in case the declaration is made by an officer other than the Head of the Railway Administration, to the Head of the Railway Administration or the Chief Personnel Officer, as the case may be.

4. **"Appeals against classification.**-(1) Any railway servant aggrieved by the declaration of classification made under rule 3 may, within ninety days from the date of such declaration, prefer an appeal to the Regional Labour Commissioner, who after scrutiny of relevant documents or if considered necessary, after a fresh job analysis, may order for a change in the classification.

(2) any railway servant or Railway Administration aggrieved by a decision of the Regional Labour Commissioner may, before the expiry of ninety days from the date on which the decision of the Regional Labour Commissioner is communicated to him, prefer an appeal to the Secretary to the Government of India in the Ministry of Labour who will dispose it of after hearing the parties concerned".

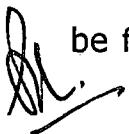
6. He further submitted that the applicants have themselves produced Ann.A-2, the order of the Central Regional Labour Commissioner dated 20.7.2000, which shows clearly that the grievance of the applicants raised in this particular case does not lie for being adjudicated upon by this Tribunal. However during detailed arguments, learned counsel for the applicants submitted that as paragraph 2 of the order of the Regional Labour Commissioner dated 20.7.2000 Ann.A-2 would show, the O.A. No.286/1999 had been filed earlier before this very Bench, and order in that OA had been passed on 5.10.1999. Therefore, he submitted that this Tribunal has jurisdiction.

7. We have called for and perused the records of the said O.A. No. 286/1999, in which the order dated 5.10.1999 had been passed. It is clear from the order that the question of jurisdiction had neither been raised nor considered by the Bench which heard the case on that day, and still the bench had not found the case fit for even notices to be issued to the respondents, and the OA had therefore been dismissed in



limine. From the above orders of the concurrent Bench dated 5.10.1999 in O.A.286/1999, and from the specific provisions of Rule 4 of the Railway Servants (Hours of Work and Period of Rest) Rules, 2005, as reproduced above, we are convinced that this Tribunal does not have jurisdiction to entertain this case, at this stage, and any Railway Servant aggrieved by the change of the classification has to first prefer an appeal to the Central Labour Commissioner only, as provided for in the Rule 4(1) of the Rules of 2005. Thereafter, as already provided in Rule 4(2) of the above Rules of 2005, an appeal will lie to the Secretary to the Government of India in the Ministry of Labour against the decision of the Regional Labour Commissioner. Only when once the Administrative appeal before the Secretary to Govt. of India in the Ministry of Labour has been disposed of, the question of judicial review of the case would come, and a case would lie before this Tribunal. Till then, there cannot a question of judicial review of the declaration of classification made by the Railway Administration, as has been prayed for by the applicants in the present O.A.

8. Also, it is observed further that this O.A. is also not maintainable for the reason that the O.A./pleadings do not disclose as to how many individuals does the Applicant No.1 Association represent, for whom relief is being sought in a representative capacity. It is seen that the determination of hours of work and declaration of classification would be separate for every single position, and/or the employee. The appeals to be filed before the Regional Labour Commissioner, and later the appeal against the order of Regional Labour Commissioner to the Secretary to Govt. of India in the Ministry of Labour would also have to be filed by the applicants in their individual capacity only, because the



factual matrix and the number of trains etc. passing from their respective Railway stations will be different in the case of every single individual covered by the above Rules of 2005. Therefore, it appear that even though the Administrative Tribunals Act, 1985, provides for an Association to file cases as applicant in a representative capacity, whenever the relief sought for is common for all members of the Association, or for the named Members of the Association, it does not appear that an appeal against declaration of classification under the above Rules of 2005 can be filed by the Association in representative capacity, when the orders of the Regional Labour Commissioner, and the orders on their appeals by the Secretary of the Govt. of India in the Ministry of Labour would all be in ~~the~~ individual cases on the basis of the individual set of facts. Therefore, it appears that such cases under the Rules of 2005 cannot be filed by an Association as an applicant.

9. Therefore, in view of the above observations, it appear that this OA is not maintainable at this stage. The OA is therefore dismissed, with no order as to costs, but it is ordered that for the purpose of limitation for approaching the Regional Labour Commissioner, the period of pendency of this OA in this Tribunal, from the date of its filing on 4.7.2011, till the date of the order, shall not count.


(SUDHIR KUMAR)
MEMBER(A)


(Dr.K.B.Suresh)
Member (J)