

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH :: CALCUTTA

MA No.305/97 (OA 705/97)

21-11-2001

Present : Hon'ble Mr.S.Biswas, Member(A)
Hon'ble Mr. Shanker Raju, Member(J)

Chittaranjan Das & Ors

-Vs-

E. Rly

For the applicant : Mr.B.C. Sinha
For the respondent : Mr.R.K.De

ORDER

Mr.Shanker Raju, Member(J) :

The MA for joining together is allowed. The applicant in this O.A. has assailed the order dated 3-6-97 vide which one Shri A.K. Chakraborty, SE(WS) who belongs to Welder Cadre has been brought with bottom seniority in the scale of Rs2000-3200/-(RPS) against 20% D.R. quota. The applicants have sought quashing of the order dated 3-6-97 transferring the private respondent No.5 as he is not qualified as per the recruitment rules. The contention of the learned counsel for the applicant is that it is not permissible for the respondent to have brought any person from different cadre which would amounts to suppression in the promotion avenue. It is also further stated that the person has been inducted against 20% D.R. quota. It is further stated that despite no vacancy existed in the cadre, the respondent No.5 has been brought by the respondent without any justified reasons. It is also stated that the action of the official respondent is malafide made with an ulterior motive.

2. On the other hand, respondents strongly refuted and have referred to the master circular and Clause 5.1 therein which provides that requests transfer to a different unit of seniority/another Division on the same Railway/another Railway, transfer should be ordered after clearance from all sources and acceptance by the new unit. Such requests should be considered only from the Railway Servants , who are in the initial recruitment grade or in the intermediate grade to which there is an element of direct recruitment.

It is further stated that the applicant is not at all disturbed by induction of private respondent No.5 who has come on transfer. It is in this background by referring to Rule 19(1) of Central Administrative Tribunal Act 1985 should not be effective because the orders passed and the chances of promotions are not the condition of service. It is also stated that induction in the cadre is prerogative of the Department to execute and policy decision which cannot be interfered.

3. Having regard to the rival contention and on perusal the materials on record, we are satisfied that the order passed on 3-6-97 has not violated the provisions of rules and was issued in accordance with the master circular. The private respondent No.5 has been brought under 20% quota meant for direct recruitment. We also find that the applicant has miserably failed to show that the transfer of the private respondent has affected his service. Further the private respondent has been accorded bottom seniority. Thus, we are satisfied that the promotional avenues of the applicants are not going to be affected by the orders of the respondent. Furthermore, the order dated 3-6-97 has not at all directly affected the applicants and as such in view of Section 19 of the Administrative Tribunals Act, 1985, the application is not otherwise maintainable. We find no merit and the application is dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)

S. Biswas
(S. Biswas)
Member(A)