

THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW

O.A. No. 496/92

1.Amar Nath
2.Ayodhya Prasad Applicants
3.Salamat Ullah Khan

Vs.

Union of India through
Secretary, Ministry of Railways Respondents
Rail Bhawan, New Delhi.
and 3 others

and

O.A. No. 502/92

1.Suraj Prasad
2.Ghanshyam Mishra ... Applicants

Vs.

Union of India through
Secretary, Ministry of Railways, ... Respondents
Rail Bhawan, New Delhi
and 3 others

Hon. Mr. S.N. Prasad, J.M.

1. Since common questions of law and facts are involved in both the aforesaid cases, these are being dealt with together and are decided by this common judgement.

2. The applicants of the aforesaid O.A. No. 496/92 have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 with the prayer for quashing the order dated 27.8.92 (Annexure -I of compilation No.1) whereby the applicants have been transferred from Pratapgarh to Varanasi. Similarly, the applicants of the aforesaid O.A. No. 502/92 have prayed for quashing the impugned order dated 7.8.92 (Annexure A) whereby they have been transferred from Pratapgarh to Varanasi.



3. Briefly stated the facts of the above case, (O.A. No.496/92) are inter alia, that the applicants were initially appointed as Khalasi in Loco Shed Pratapgarh and presently ^{are} working as Fitter Grade-I in the Loco Shed Pratapgarh. In the year 1982, the management of the railway decided to close down this Steam Loco Sheds at Pratapgarh, Faizabad and Varanasi and the surplus staff was decided to be transferred to the other places wherever ^{would be} the vacancies ~~were~~ available from time to time. According to the scheme formulated by the management taking into confidence the recognised labour unions, as per Railway Board's Circular dated 20.6.77 (vide Annexure-[~] Compilation-II) [~] and in case of curtailment of the staff, it was decided that the juniormost employees will be treated as surplus and should be transferred first (Vide Annexure-[~] which is a copy of Circular No.3601 dated 13.9.66). As per Circular No. 4491 dated 20.11.68 and as per Circular dated 14.3.74 of the Railway Board, it has been provided that the transfer of the staff from one station to another station in the same grade should not be effected as a matter of principle where the employee was to superannuate within 2 years from the date of transfer. (vide Annexures 'D' & 'E'). In violation of the above policy guide lines and directions contained in the aforesaid Circulars, the applicants have been transferred from Pratapgarh to Varanasi vide impugned order dated 27.8.92 (Vide Annexure-A) treating them as surplus. It has been further stated that the applicants have been transferred to Loco Shed Varanasi which is also under close down scheme and as such the transfer of the applicant to Varanasi is mostly a ^{happens} ~~happens~~ as there is no vacancy at Varanasi (Vide Annexure 'F'- Compilation No. II).

4. It has further been stated that applicants No. 1 and 2 are within 2 years of their superannuation and this fact has been ignored by the respondents while passing the impugned transfer order. It has ^{~ been ~} further stated that the impugned transfer will entail and ^{~ many ~} create problems and hardships to the applicants by disturbing the studies of the children of the applicants during mid-session and will cause the financial loss to the applicants and as such the impugned order be quashed.

5. In the Counter reply filed by the respondents, it has been contended, inter alia, that the applicants have been transferred from Pratapgarh to Varanasi on administrative grounds because of the permanent closure of the ^{~ Steam ~} Loco Shed at Pratapgarh and as such all the staff working in the Loco Shed Pratapgarh have been transferred to other sheds in the Division. It has further been stated that due to the Dieselisation Scheme, all the Steam Loco Sheds in the Division are being closed. However, at present some Loco Sheds at Lucknow, Faizabad and Pratapgarh have already been closed and therefore, the surplus staff working in these Loco Sheds have to be utilised in the remaining Steam Loco Sheds in the Division and the surplus staff of the Steam Loco Sheds which have been closed are being given diesel conversion training to absorb them in the Diesel Loco Sheds. The surplus staff of the Steam Loco Sheds who are not declared 'Passed' in the Diesel Conversion Training are posted out of the Division in the Steam Loco Sheds. Since there is no work at the Steam Loco Shed at Pratapgarh due to closure of the Steam Loco Shed Pratapgarh, the surplus staff of the Steam Loco Shed Pratapgarh are being transferred and

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that is why the applicants have been transferred on administrative grounds. It has further^{~ been ~}contended that the Railway Board's Circular dated 14.3.74 is not applicable in the case of the applicants as they have been transferred on administrative grounds and there is no violation of any statutory rule and also guide lines and as such the impugned transfer order are not liable to be quashed, and in view of the above circumstances, the application of the applicants is liable to be dismissed.

6. Succinctly, the facts of the above O.A. No. 502/92 are, inter alia, that both the applicants were appointed initially as Loco Khalasi in Loco Shed at Pratapgarh and presently^{~ are ~}working as Fitter in the Loco Shed Pratapgarh, but by the impugned order dated 7.8.92, the applicants have been transferred to Varanasi from Pratapgarh, though the persons junior to the applicant, namely S/Shri Swami Dayal, Deo Kumar, Inayatulla, Ra Dev, Ram Pal Yadav and Shive Prasad have been retained at Pratapgarh by violating all the^{~ directions of the said ~}circulares and orders by a pick and choose method. Rest of the allegations and view points of the applicants of this O A No.502/92 are identical with the view points and grounds as set out by the applicants of O A. No. 496/92, as mentioned above.

7. The contentions of the respondents in O.A. No 502/92 are almost identical with the contentions as set out in the Counter reply of the respondents in aforesaid O.A. No.496/92, as mentioned above.

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8. I have heard the arguments of the Learned Counsel for the parties and have thoroughly gone through the records of the case.

9. Learned Counsel for the applicants while reiterating the view points as set out in ~~the~~ both the aforesaid applications has stressed that despite clear directions ~~s~~ issued by the Railway Board from time to time as contained in various Circulars of the Railway Board as mentioned in the applications ~~that~~ the respondents have not acted in accordance with the directions contained in the above Circulars and have not imparted training to the staff including the applicants of both the aforesaid cases who have been transferred by the aforesaid impugned orders as a result of closure of the ^{Steam} Loco Shed at Pratapgarh with a view to absorb them in ~~Steam~~ Diesel Loco Sheds; and ^{has} further argued that the persons junior to the applicants have been retained but the applicants have been transferred to Varanasi from Pratapgarh during mid-session which would entail much hardship and difficulties to the applicants and their family members besides disturbing the studies of the children of the applicants and as such the impugned ^{transfer} orders which are in violation of the statutory policy guide lines should be quashed.

10. Learned Counsel for the respondents while drawing my attention to the pleadings of the parties and the papers annexed thereto and while reiterating contentions and view points as set out in the counter ^{in both the cases that} reply ^{has} stressed as a result of the closure of the steam loco shed all staff of Pratapgarh Steam Loco Shed have been transferred as would be obvious from the ^{and} ^{personal} impugned transfer orders. The applicants have been transferred to Loco Shed Varanasi on administrative



grounds because Loco Shed Pratapgarh was closed down permanently and as such staff working in the Pratapgarh Loco Shed had to be transferred to other Sheds in the Division and as such the impugned orders have been passed on administrative grounds and the applicants have been transferred to the nearest possible place. He has further argued that there is no violation of the statutory rule and policy guide lines; and has further argued that transfer is an incident of service and every transfer involves some hard-ship, and that is material and as such the application of the applicant should be dismissed and in support of his arguments has placed reliance on the following rulings :-

- (i) Union of India (Applicants)
Vs.
H.N. Kritania (Respondents), A.I.R.
1989, S.C. Page 447.
- (ii) A.I.R. 1989 S.C. Page 1433
Gujrat Elect. Board and other (Applicants)
Vs.
A.S. Poshani (Respondents)

11. I have perused the above rulings.

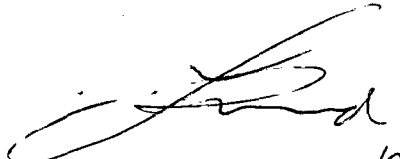
12. This is worthwhile to make a mention of this fact that from the perusal of the counter reply and from the perusal of the impugned transfer orders, as referred to above, and from the scrutiny of the entire material on record, it becomes obvious that all the staff working in the Steam Loco Shed at Pratapgarh were to be transferred from Pratapgarh as a result of closure of the Steam Loco Shed, Pratapgarh. As such all the staff working as Fitter Grade-I including the applicants have been transferred with a view to utilise their services at Varanasi where there is still some work, though the Steam Loco Shed at Varanasi has also to be closed later on due to the dieselisation

scheme and it also becomes obvious that the applicants have been transferred to Varanasi which is nearest possible place from Pratapgarh and at Varanasi they will be imparted training to absorb them suitably.

13. This fact should not be lost sight of that the scrutiny of the entire material on record transpires that when the Steam Loco Shed at Pratapgarh has been closed down then in that case the utilisation of the services of the applicants does not appear to be feasible and practicable at Pratapgarh. The Circulars of the Railway Board as referred to in the application of the of the applicants and Railway Board's letter No. E(NG)II-81/RE/dt.21.4.89, which has been shown by the Learned Counsel for the applicants, contains the guide lines regarding the absorption and utilisation of surplus staff as a result of closure of Steam Loco Sheds, Marshalling Yards, Goods Sheds etc. and is found to be of no avail to the applicants in the face of the above ^{fact} glaring of the above cases.

14. Having considered all the view-points and all the facts and material on record and keeping in view the principles of law as enunciated in the above ruling and keeping in view all the aspects of the matters, I find that the above applications of the applicants are devoid of merit and are liable to be dismissed.

15. In the result the above O.A. No. 496/92 and ~~O.A. No. 496/92~~ O.A. No. 502/92 are dismissed. No order as to costs.


Member (J) 19.11.92

Lucknow
dt. 19-11-92
/smc/