

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH AT BOMBAY

Original Application No. 552 of 1996.

Shri Swamiduri Sundarsan,

T/s, P. Way, Gang Mate,

Jesai, Tal. Urban,

Dist. Raigad,

C/o. P.W.I. (C) Jesai, Central Rly. Applicant.

V/s.

1. Union of India through

The General Manager,

Central Railway, Mumbai,

V.P. 400 001.

2. Dy. Chief Engineer (C),

Central Railway, Dadar.

3. The Executive Engineer

(Construction), Panvel,

Central Railway.

4. The Permanent Way Inspector

(Construction),

C/o. P.W.I. C.R.

Jesai.

Respondents.

:: 2 ::

1. DETAILS OF THE APPLICATION

ORDER AGAINST WHICH THIS APPLICATION IS MADE :

By way of this application the applicant challenges

illegal arbitrary and unjust temporary transfer/

deputation of applicant from P.W.I. (C) Jesai to

office of CPW /C/KURLA/TARMINAL vide letter No.

PWI/CL/Gen/ dtd. 17/5/1996.

2. JURISDICTION :

The applicant humbly state that subject matter of

this application against which redressal is made

is within the jurisdiction of the Tribunal.

3. LIMITATION :

The applicant further declares that application

within the time limit prescribed U/S 21 of A,T, Act.

4. FACTS OF THE CASE :

That the applicant being citizen of India entitled

to get benefits enshrined under the provisions of

articles 14 and 16 of the constitution of India.

At present applicant is working as Mate under the

:: 3 ::

respondents.

4.1 Being aggrieved and dissatisfied with the letter/order dated 17/5/1996 issued by the respondents, annexed hereto and marked as Annexure A-1 to this application, the applicant prefer this application on the following amongst the other ground that may be urged at the time of hearing of application.

5. G R O U N D S

- 1) The order dated 17/5/1996 issued by the respondents is illegal, unjust and bad in the eyes of law.
- 2) The impugned order is arbitrary and illegal and in contravention of the instructions and guidelines issued by the respondents. As it is evident from the order dated 17/5/1996 that the transfer of the applicant is not regular, permanent or routine transfer. The transfer of the applicant is for stop-gap

arrangement and ~~the~~ for limited period. The applicant recruited on 31/12/1981 and having granted temporary status on 1/1/1984 is neither senior most nor junior most due for said transfer.

The respondents ~~were~~ ^{ought} to have transfer the junior most employees as being a temporary transfer. The respondents had adopted pick and choose policy without any justified, valid reasons and therefore the same deserves to be quash and set aside.

3) The applicant further state that as there is reference of Dy. C. E. (C) Panvel instructions in the said order. Thus the said order is issued in pursuance of some instructions of Dy. C.E. (C), Panvel. In absence of said instructions applicant is not able to offer any remarks about the same. But ~~the~~ instructions of Dy. C.E.(C) Panvel must be to provide services of some C.L. The action of the respondents without following fair practice their instructions, transferring applicant

:: 5 ::

is baseless and illegal.

4. It is significant to pointed out at this stage that in said order related to deputation of applicant under CPW/C/KURLA. It is pertinent to note that as far as deputation is concern prior willingness/unjust of employee is required to be obtained. In the case of the applicant no such willingness/~~xx~~ consent is obtained by the respondents. The said transfer/deputation of applicant is prima-facie illegal. The applicant further repeats and reiterates what is stated herein above the present transfer being temporary transfer/deputation the respondents ought to have obtained willingness/consent of applicant. Therefore the impugned action of the respondents qua applicant is illegal null and void ab initio and ineffective.
5. The applicant hereby state that the respondents being model employer had issued instructions, guidelines on the subject of transfer/deputation of employees.

5/

:: 6 ::

It is also expected that the respondents will follows the same equally for all. It is pertinent to note that the applicant had filed an application for equal pay for equal work before this bench and the same is registered as OA/22196 and pending for adjudication. With a view to harrass the applicant with a ulterior motive, malafide intention and with a prejudiced biased mind issued the present transfer order of the applicant. Thus the same deserves to be quash and set aside.

Thus there is prima facie case in favour of the applicant. As far as balance of convenience is concern it is also in favour of the applicant. The said order is served upon the applicant on 18/5/1996. At present applicant is on leave. Now no any other and further effecious remedy left for the applicant except to approach this Honourable Tribunal by way of filing this application.

6/

:: 7 ::

6. RELIEFS PRAYED FOR :

The applicant therefore pray as under :-

- 1) That the Honourable Tribunal be pleased to admit this application.
- 2) That the Honourable Tribunal further be pleased to hold/declare that the order dated 17/5/1996 qua applicant is illegal, arbitrary, unjust and null and void ab initio and further be pleased to quash and set aside the same.
- 3) Any other and further relief that the Honourable Tribunal may deem fit and proper may be given to the applicant.

7. INTERIM RELIEF :

Pending hearing and final disposal of this case the respondents may be directed by way of interim order to stay - suspend implementation, execution of order dated 17/5/1996 qua applicant.

SDY