

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.399/2001

This, the 19th Day of February, 2002

CORAM: HON'BLE SHRI JUSTICE ASHOK AGARWAL. CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY. MEMBER (A)

Shri Baljit Singh Kahai,
S/o Shri Manohar Kahai,
Aged 42 years, working as
Junior Engineer (Grade-I),
Drawing/Design Senior D.E.E. Office,
(E.S.), Western Railway,
Mumbai Central,
Mumbai-400 008. ... Applicant

By Advocate Shri S.P. Kulkarni.

Versus

1. The Divisional Railway Manager,
Office of the General Manager,
Western Railway, Churchgate,
Old Building, Mumbai-400 020.
2. The Chairman,
Railway Board, Rail Bhawan,
New Delhi-110 001.
3. The General Manager,
Rail Coach Factory,
Northern Railway,
Kapurthala (Punjab) 144 601.
4. Senior Divisional Electrical
Engineer (Rolling Stock),
Office of Sr. D.E.E. (R.S.),
Western Railway,
Mumbai Central,
Mumbai-400 034. ... Respondents

By Advocate Shri V.D. Vadhavkar.

O R D E R (ORAL)

Hon'ble Smt. Shanta Shastry. Member (A)

The applicant, who is working as Junior Engineer
Grade-I, Drawing & Design in the office of Senior D.E.E.

Office, Western Railway has sought a transfer on his own request to Punjab (Kapurthala) vide his letter dated 4.7.2000. However, his request is rejected. The applicant also requested specifically to go on transfer on reversion and has also given his willingness to forego his seniority, he is prepared to be placed at the bottom of the seniority list. In spite of this, the respondents are not agreeable and they have informed the applicant on 18.1.2001 that since he does not fulfil the educational qualification required for direct recruitment i.e. Diploma in Mechanical/Electronic/Metallurgy/Industrial Engineering his request for a transfer from Western Railway to Northern Railway (Kapurthala) cannot be considered. The applicant has once again pleaded that he is prepared to go anywhere to the farthest point in Western Railway namely Mathura even to a lower post in which he was initially recruited, now redesignated. The applicant has made this request on account of his personal problems.

2. On the last occasion when the matter was heard, the applicant was provided liberty to make a formal application in this regard to the General Manager indicating the post, place etc., and the General Manager, in turn would consider under the powers vested in him and would be at liberty to decide the same on merits or forward to the appropriate authority for decision in another Railway/Railway Board, notwithstanding the pendency of the OA.

3. The learned counsel for the respondents has expressed complete helplessness in acceding to the request of the applicant on the ground that though earlier rule provided for consideration of such transfer on own request and on own cost, the respondents' hands are tied on account of

the judgment of the Chandigarh Bench of the Tribunal in OA No.413/98 decided on 22nd September, 1998 wherein it was directed that any transfer of outsiders against the posts reserved for direct recruitment can be considered only if the person concerned possesses the requisite qualification as for direct recruitment. This was tested in the High Court of Punjab & Haryana, it was upheld vide order dated 11th January, 1999. The appeal preferred against the same in the Supreme Court was also dismissed on 26.7.1999. The respondents, therefore, had to modify their recruitment rules, as a result, it is not now possible to accommodate the applicant in Kapurthala. The applicant does not possess the requisite educational qualification, the post being for direct recruitment for Diploma holders. The applicant has once again pleaded that he is prepared to go even on reversion, even that has not been agreed to by the respondents on the ground that there would be agitation by the promotees also and therefore, the respondents are not in a position to agree.

4. Now that the applicant has once again expressed that he is prepared to go to the farthest point in the Western Railway i.e. Mathura Railway Workshop, we feel that ends of justice would be met if the applicant makes a fresh application to the respondents on those lines with all the details and the respondents in turn consider the request of the applicant afresh. We direct accordingly. The applicant shall give his fresh representation within a period of two weeks, time from the date of receipt of a copy of this order and the respondents shall decide the same within

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three months from the date of receipt of the representation with a speaking order according to rules. The OA is disposed of accordingly. No costs.

Shanta S
(SMT. SHANTA SHASTRY)
MEMBER (A)

Ashok Agarwal
(ASHOK AGARWAL)
CHAIRMAN

Gajan

dt. 19.2.2007.
Judgment Despatched
(to Applicant/Respondent(s))
on *7.3.2007.*

BB
14/3.