

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:39/2001

DATE OF DECISION: 25<sup>th</sup> July 2021.

Shri Jagannath Narayan Marathe Applicant.

Shri K.B. Talreja Advocate for  
Applicant.

Versus

Union of India and others Respondents.

Shri R.R. Shetty for Shri R.K. Shetty Advocate for  
Respondents

CORAM

Hon'ble Shri S.L. Jain, Member (J)

(1) To be referred to the Reporter or not? yes

(2) Whether it needs to be circulated to  
other Benches of the Tribunal? No

(3) Library. yes

(S.L. Jain)  
Member(J)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO: 39/2001

Friday the 20<sup>th</sup> day of JULY 2001

CORAM: Hon'ble Shri S.L. Jain, Member(J)

Jagannath Narayan Marathe  
Resident of I.N.S.Shinagi  
House Nop.13, Bhushigaon  
Lonavala.

...Applicant.

By Advocate Shri K.B. Talreja

V/s

1. The Union of India through  
The General Manager,  
Central Railway, Mumbai CST.
2. The Divisional Railway Manager  
Central Railway, Mumbai CST. ...Respondents

By Advocate Shri R.R. Shetty for Shri R.K. Shetty

ORDER

{Per Shri S.L. Jain Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 seeking direction to the respondents to transfer him to the Electrical Department or any other department as per Rules and policies framed for transferring the Gangmen to other departments as mentioned in various circulars of the Railway Board alongwith costs.

2. The applicant's date of birth is 1.5.1972. He was appointed as Gangman on 26.6.1998 on compassionate ground. The applicant submitted an application dated 18.12.1998 (Annexure 2) to the D.R.M. Mumbai with a request for transferring him as he has passed Electric Wireman's course conducted by Board of

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Vocational Examination in July 1991 and has secured first class marks, in any of the office of Electrical Department or Engineering department. The said request of the applicant was rejected by the competent authority vide order dated 29.9.2000 (Annexure 1).

3. The grievance of the applicant is that in view of the Railway Board letter No. E58.CFP/13 dated 19.2.1959 he has applied for change as per Annexure 2. His father was also in Electrical department against which he has been appointed on compassionate ground. According to the Railway Board letter No. E(NG)64-CFP/9 dated 9.6.1964, the age limit for Gangman for transfer to another department is 35 years, which he qualifies. As per Railway Board letter No. E(NG)I-87/CFP/12 (PNM/NIFR) dated 27.1.1988 RBE 17/88, transfer of Gangman to Traffic Mechanical and Engineering Department is against 10% annual intake and it has been suggested that this should be encouraged. Applicant's requests has been rejected. Hence this OA for the above said reliefs.

4. The respondents have resisted the claim of the applicant and stated that Railway Board Circular dated 14.10.1998 (Exhibit R1) is relevant for consideration and transfer to the extent of 10% and 40% quota has to be allowed if and when there is a notification issued by user Department workshop/Unit for a requirement. Since there is no such notification or request from the Electrical Department for such kind of transfer from the cadre of Gangman, the question of considering the case of the applicant in the absence of such a notification does not arise.

*Sign* / ...3...

There exists no vacancies in the Electrical Department. Transfer is a management function and incidence of service which cannot be interfered with or influenced upon by the applicant or this Tribunal unless the applicant has a right of transfer as per Rules. Hence prayed for dismissal of the OA alongwith costs.

5. The respondents have relied on Railway Board letter dated 14.10.1998 (Exhibit R1). Perusal of the same makes it clear that 40% Group 'D' vacancies in the workshop are to be filled from amongst Group 'D' staff of other department on bottom seniority upto the upper age limit of 33 years. Further 10% of the vacancies in Group 'D' in the workshop with 50% seniority in the upper age limit of 35 years are to be filled by induction of Gangman / Khalasis and Safiwalas of all departments.

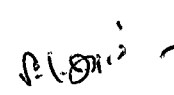
6. In view of the said letter dated 14.10.1998 vacancies must exists. As the respondents stated that there exists no vacancies. Hence question of consideration of applicant's request and rejection thereof cannot be said to illegal or irregular one.

7. The learned counsel for the applicant has placed reliance on RBE No.17/88 dated 27.1.1988 and argued that induction of Gangman should be encouraged. I do not find any such word 'should be encouraged' in the letter.

*P.L. Singh* —

8. The applicant cannot be considered to be even an aggrieved person in this respect as no other person has been provided with the said relief and he is ignored. The applicant has no cause of action.

9. In the result I do not find any merit in the OA, it is liable to be dismissed and is dismissed with costs amounting to Rs. 650/- (Rs. 500/- as legal practitioners fee and Rs. 150/ as other expenses) which shall be paid by the applicant to the respondents within one month of receipt of copy of the order.

  
(S.L.Jain)  
Member(J)

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