

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 553/95

Date of Decision : 22nd March 2002

Ajay Kumar _____ Applicant
None _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents
Shri V.S. Masurkar _____ Advocate for the
Respondents

CORAM :

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

(i) To be referred to the reporter or not ?

(ii) Whether it needs to be circulated to other
Benches of the Tribunal ?

(iii) Library

S.L.JAIN
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.553.95

Dated this the 22nd day of March 2002.

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

Ajay Kumar,
Diesel Assistnt,
Nandurbaar Loco-Shed,
Western Railway,
Nandurbar, Dist.Dhulia.

...Applicant

None for the applicant

vs.

1. Union of India through
General Manager,
Western Railway,
HQs. Office, Churchgate,
Bombay.

2. Divisional Railway Manager,
Bombay Division,
Western Railway,
Bombay Central,
Bombay.

3. Divisional Manager,
Kota Division,
Western Railway,
Kota.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R

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

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the declaration that the applicant is entitled to transfer to Kota Division on his own request as per the letter dated 15.2.1992. The applicant has

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sought a mandatory direction to the respondents to transfer him to Kota Division as Diesel Assistant and assign him seniority as such over Shri Rakesh Kara or any other employee junior to the applicant with all consequential benefits.

2. The applicant was appointed after selection by Railway Service Commission as Diesel Assistant on or about 7.12.1988 and is working as such at Nandurbar Loco Shed under Bombay Division of Western Railway. He applied for transfer to Kota Division vide his application dated 10.2.1990 followed by reminder dated 10.2.1992 (Exhibit-'A' & 'B' respectively). Pushpender Jain was also transferred in November, 1994 to Kota Division.

3. Shri Rakesh Kara and Shri Manoj Kumar Meena were transferred to Kota Division in the year 1992 and 1994 respectively. Shri Chhavi Kumar Jain and Jaga Bhushan Sharma were transferred vide order dated 8.11.1992 but they were recalled.

4. The applicant has filed this OA. on 18.4.1995. Thereafter, in pursuance of the order of this Tribunal, the latest position was placed by the respondents on record and now the applicant is working as Goods Driver in the pay scale of Rs.1350-2200 vide order dated 31.5.1996. Previous to it, he was also promoted to the post of Senior Electrical Diesel Assistant Driver in the pay scale of Rs.1200-2040 vide office order dated 7.4.1995.

PLW/ -

..3/-

5. The applicant claims that the Western Railway has 8 Divisions and one of which is Kota Division. Each Division of Western Railway is a self contained unit for the purpose of maintaining seniority and promotion of Diesel Assistant to the posts of Driver Grade 'C'. On 15.9.1992 the Respondent No.2 issued a letter indicating therein the names of those Diesel Assistants who had requested for inter-Division transfers. The name of the applicant is at Sr.No.1. The respondents did not transfer the applicant to Kota Division in accordance with the priority shown in the letter dated 15.9.1992 and the persons junior, on the basis of date of Registration, to applicant were transferred. Hence, this OA.

6. The respondents have resisted the claim stating that OA. is not maintainable as transfer of any employee on his own request is not mandatory and no right is vested in the applicant to demand such a transfer. The transfer is purely an administrative matter which cannot be claimed as a matter of right. As such, OA deserves to be dismissed. It is further stated that vide letter dated 12/15.3.1993 from HQs. Office under their letter No.E/M/1140/8/2vol.XI (BCT Divn.) and subsequently under letter No.E/M/1140/8/2 vol.VI (BCT Divn.) dated 6.4.1993, it was advised that due to closure of Steam Shed a number of surplus staff are required to be adjusted and therefore it will not be possible to accommodate the applicant seeking transfer to Kota Division. None of the employees listed in letter dated

20/11/

..4/-

15.9.1992 at Exhibit-'C' to the OA. have been relieved as no acceptance letter has been received from Kota Division. Shri Rakesh Kara has been relieved on the basis of letter No.EM/1140/8/2 vol.IV dated 16.9.1992 received from the HQs. Office and DRM (E) KTT's letter No.E/L/1140/Running Staff dated 28.9.1992 as an exceptional case. As stated Shri Chavi Kumar Jain and Jagbhushan Sharma were relieved on transfer to Kota Division by letter dated 6.11.1992 but they were transferred back to Bombay Division due to non-availability of any vacancy under DRM (E) Kota's letter No.E/L/1140/1(Running) dated 11.12.1992. Shri Pushpender Jain was relieved on the basis of acceptance received from Kota Division under their letter No.E/L/1140/1 vol.I dated 1.11.1994.

7. It is true that transfer on request from one Division to another was on account of closure of Steam Shed, a decision by the respondents. To implement the same, they have also maintained the lists of persons who had applied for the said transfer in order of receipt of the applications but it being only a directive and transfer dependents on the fact that the vacancy exists in another division and consent is accorded by the said Division. Further, such policy decision cannot be implemented or enforced as a matter of right. As such, even though Rakesh Kara and Manoj Kumar Meena were transferred whose applications were not earlier in time, the applicant has no cause to agitate.

SCDM

..5/-

8. In the result, OA. is liable to be dismissed and is dismissed accordingly with no order as to costs.

S.L.JAIN
(S.L.JAIN)
MEMBER (J)

mrj.