

(34)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD.

O.A.NO. 747/92

DATE OF JUDGMENT: 15.6.95

BETWEEN:

Mudu Shanker

Applicant

AND

1. The Divisional Railway Manager (Personnel),  
B.G.Division,  
S.C.Railway,  
Secunderabad.
2. The Sr. Divisional Engineer (Coordination),  
B.G.Division,  
Secunderabad.
3. The Divisional Engineer (South),  
B.G.Division,  
Secunderabad.
4. The Assistant Engineer,  
B.G., SC Railway,  
Dornakal.

Respondents

COUNSEL FOR THE APPLICANT: ~~SHRI~~ Mrs. P.Sarada

COUNSEL FOR THE RESPONDENTS: SHRI NR Devaraj,  
Sr./~~Asst.~~ CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD.....

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O.A.NO.747/92.

JUDGMENT

Dt:15.6.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Smt. P.Sarada, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant joined Railways as Casual Labourer under P.W.I.(Construction), Mahaboobabad in 1981. He was being paid at monthly rates from 1984. His services as Gangman in the pay scale of Rs.775-1025 were regularised in January 1991 and he was posted to Ghatkesar to work under PWI. The applicant made request for his transfer to Dornakal which is under the jurisdiction of AEN, Dornakal on the ground that his child who was having kidney problem required constant medical attention. The Order dated 13.11.1991 was issued by AEN, Dornakal transferring the applicant to Dornakal as Gangman subject to the request transfer conditions which include acceptance of bottom seniority. Later, the applicant made request to transfer him to IOW, Dornakal to work as Khalasi by alleging that he was not in a position to work as Gangman as he developed gastric problem and underwent operation. Then by the letter No.AEN/DKJ/Es/11, dated 13.6.1992, the applicant was ~~transferred and~~ posted as Khalasi in the pay scale of Rs.750-940. It was also stated therein that he has to be placed at the bottom seniority in the new unit.

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3. Memo No.CP/36/Engg/Screening, dated 19.8.1992 was issued by R-I whereby the applicant was <sup>asked to go</sup> ~~sent~~ back to Ghatkesar. The same is assailed in this OA.

4. It was also alleged in the OA which was filed on 28.8.1992 that the impugned memo was not served on him by then. The said order was suspended by the interim order dated 28.8.1992 which was continued from time to time.

5. The learned standing counsel for the respondents stated that the draft reply statement was sent to the concerned and he is having copy of the same. As this OA is <sup>an</sup> old matter, we requested the learned standing counsel to address the arguments for the respondents on the basis of the said draft reply statement.

6. One of the pleas taken in the said draft reply is that one of the labour unions and some of the affected CMR <sup>personnel</sup> ~~Gangman~~ of the Unit of IOW, Dornakal represented against the transfer of the applicant as Gangman from Ghatkesar to Dornakal on the ground that CMR personnel of one unit cannot be transferred to other unit as the service conditions of that particular unit to which the applicant was transferred will be affected and on examination of the matter the impugned order was issued.

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To

1. The Divisional Railway Manager(Personnel),  
B.G.Division, S.C.Rly, Secunderabad.
2. The Sr.Divisional Engineer(Co-ordination)  
B.G.Division, Secunderabad.
3. The Divisional Engineer(South)  
B.G.Division, Secunderabad.
4. The Assistant Engineer, B.G.S.C.Rly,  
Dornakal.
5. One copy to Mrs. P.Sarada, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One sparecopy.

pvm

12/8/2005

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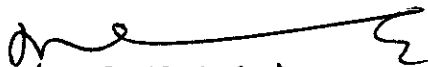
7. It may be noted that by the date of the transfer, of the applicant was a regular Gangman and he was not CMR Gangman. Rules permit transfer of the regular employees either on administrative grounds or on request subject to the relevant conditions. On that basis itself, the impugned memo whereby the original order transferring the applicant was cancelled and he was retransferred to Ghatkesar has to be set-aside.

8. Further, it has to be noted that by the date of issual of the impugned memo, the applicant was working as Khalasi and he was placed at the bottom seniority on the date he was appointed as Khalasi under IOW, Dornakal. As the rules permit transfer of the regular employees, there was no illegality or irregularity in issuing the order in November 1991 transferring the applicant ~~from~~ from Ghatkesar to Dornakal.

9. Hence, the impugned memo No.CP/36/Engg/Screening dated 19.8.1992 is liable to be quashed.

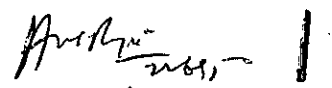
10. In the result, the impugned memo No.CP/36/Engg/Screening, dated 19.8.1992 is quashed. No costs.

The OA is ordered accordingly. /

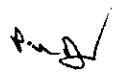
  
(R. RANGARAJAN)  
MEMBER (ADMN.)

  
(V. NEELADRI RAO)  
VICE CHAIRMAN

DATED: 15th June, 1995.  
Open court dictation.

  
Deputy Registrar (DCC)

vsn



THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN))

DATED 15/6 1995.

ORDER/JUDGMENT:

M.A./R.A./C.A.No.

in

OA.No.

747/92

TA.No.

(W.P.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

No spare copy

21/6/95

