

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR

DA No. 67/93 : Date of order: 01.03.94

All India SC & ST  
Railway Employees : Applicant  
Association

V/s

Union of India & Ors : Respondents

Mr. Jas Raj : Counsel for the applicant

None : For the respondents

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HON'ble Mr. Gopal Krishna, Member (J)

Hon'ble Mr. D.P. Sharma, Member (A)

AS PER HON'BLE MR. D.P. SHARMA, MEMBER (A)

All India SC/ST Railway Employees Association, Ajmer and two members of the Association Shri Gangadhin and Shri Jagnath both railway employees at Ajmer have filed this application u/s 19 the Administrative Tribunals Act, 1985, praying that the orders at Annexure A-1 and A-2 issued by the General Manager, Western Railway and Chief Mechanical Engineer, Loco, Ajmer respectively may be declared illegal as in colourable exercise of power. There is a further prayer that these two orders at Annexure A-1 and A-2 may be quashed and transfer of SC and ST employees from the places of their posting i.e. Ajmer to other places such as; Marwar Junction, Abu Road, Gandhidham and Rana Pratap Nagar be set aside.

2. The facts of the case as, set out by the applicants are that steam works in Loco Shed, Ajmer and Marwar Junction have been closed down, about 60 employees therein have been declared surplus and are being transferred from their present places of posting to other places where vacancies exists. These 60 employees include about 34 SC/ST employees. During the arguments, the learned counsel for the applicant stated that only 6 SC/ST employees now remain to be adjusted at their original places of posting. These 6 employees and the places to which they have been transferred are as under:

Mr. Gangadhin	Gandhidham
Mr. Jagnath	"
Mr. Narain Singh	"
Mr. Madan Lal	"
Mr. Hera lal	"
Mr. Tara Chand	Rana Pratap Nagar

3. Initially vide order dated 3.10.92, the SC/ST employees were adjusted at their original places of posting, in accordance with the order of the Railway Board issued from time to time. The applicants have cited the Railway Board's instructions dated 19.11.70, 10.10.77 and 6.7.78 to suggest that SC/ST employees should not be transferred from their places of posting, as far as practicable, should be posted nearer their home towns, at places where administration could provide residential quarters to them and they should not be transferred even on contraction of cadre. However, the earlier order dated 3.10.92 was changed and members of the SC/ST Association were transferred to different places. The representations made to the authorities in this regard were of no avail. The Association, therefore, filed an application before the Tribunal, which was registered as OA No. 1132/92. A Single Member Bench of the Tribunal at Jaipur directed the respondents vide order dated 27.11.92 Annexure A-12 that they should dispose of the representation already made by the Association in this regard with due sympathy through a speaking order, in accordance with the rules, instructions and guidelines on the subject. However, the respondent No. 5 i.e. The Divisional Personnel Officer, Western Railway, Ajmer did not accept the plea of the Association and its employees in spite of the order Annexure A-12 passed by the Tribunal being brought to his notice.


4. The learned counsel for the applicants has once again drawn our attention to the circulars of the Railway Board referred to in the application and has also referred to an order dated 30.6.88 passed in OA No. 166/87 in Hemraj Chauhan V/s Union of India & Ors by the Jodhpur Bench of the Tribunal. It was held in the order of the Jodhpur Bench that the SC/ST employees should be posted nearer their home towns and should be transferred very rarely and for very strong reasons. He has also stated that these employees are subjected to social discriminations and when they are transferred to far away places, they sometimes found it difficult even to get residential accommodation at such new places of posting.

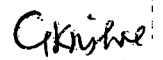
5. We have heard the learned counsel for the applicant carefully and have perused the records. None is present on behalf of the respondents. However, we are in a position to take a decision on this application on the basis of the averments in the application and the annexures to this application.

6. Annexure A-1 is the letter dated 16/21-12-1992 addressed by the Divisional Personnel Officer, Western Railway, Ajmer to All India SC/ST Railway Employees Association, Ajmer on the subject of transfer of staff as a result of closure of Steam Loco Shade, Ajmer and Marwar Junction. In this letter, it has been stated that originally the SC/ST employees, on being rendered surplus on account of closure of the loco shade were adjusted at their original places of posting, but the matter was reconsidered in the light of the representations received from others. The Western Railway Headquarter, therefore, clarified vide their letter dated 11.11.92 that policies, instructions on transferring the juniormost employee should be implemented and the earlier instruction dated 25.11.77 issued by the Chief Personnel Officer were superseded. Therefore, the new policy was that juniormost employee should be transferred on being rendered surplus, irrespective of whether they belong to SC/ST categories or General Category. This letter dated 11.11.92 from the Western Railway Headquarter has also been annexed by the applicant as part of Annexure A-1. It has been reiterated therein that policy instructions directing the transfer of the juniormost employee should be implemented. The position now, therefore, is that earlier instructions of the Railway Board relied upon by the applicant are no longer operative. These instructions cannot, therefore, be invoked for arguing that SC/ST employees should be adjusted at their original places of posting in all circumstances. It is for the Administration to evolve a suitable policy regarding transfers. The Tribunal cannot sit in the chair of the administration and decide which employees or categories of employees should be transferred and in what circumstances.

7. It is an unfortunate circumstance that social discrimination in some forms against SC/ST employees exists but the remedy is not that there should be a blanket ban on transfer of SC/ST employees to other places. In a specific, individual, case where an SC/ST employee faces hardship on this or any other account, he should represent to the administration regarding his difficulties and we are confident that the administration will look into the matter and take necessary corrective action where called for. We, however, decline to interfere in the matter of transfer of SC/ST employees as a matter of policy.

8. The OA is, therefore, dismissed at the admission stage with no order as to costs.

  
(O.P. Sharma)  
Member (A)

  
(Gopal Krishna)  
Member (J)