

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 05.01.1994.

QA 205/93

SOLOMAN SMITH

... APPLICANT.

v/s.

UNION OF INDIA AND OTHERS ... RESPONDENTS.

CORAM:

HON'BLR MR. GOPAL KRISHNA, MEMBER (J).  
HON'BLR MR. O.P. SHARMA, MEMBER (A).

For the Applicant ... SHRI M.M. BHARATHAN.

For the Respondents ... SHRI MANISH BHANDARI.

PER HON'BLR MR. O.P. SHARMA, MEMBER (A).

Applicant Solomon Smith has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying that the transfer and posting order dated 22.4.92 (Annexure A-1) changing the cadre of the applicant may be set aside. He has further prayed that the order dated 21.9.92 (Annexure A-2) and the communication dated 22.3.93 (Annexure A-3) may be declared as invalid. He has sought a further direction that the respondents may adjust the applicant on the same post of Weighing Machine Tester Grade-I anywhere in the Western Railway and if it is possible to do so, the option of the applicant may be taken for his choice of posting to a new cadre (designation) on the same pay scale and pay, protecting his seniority and his option for the place of posting may also be taken. Still further prayer is that the respondents may be directed to pay the salary of the applicant regularly.

2. The facts of the case are that the applicant was working on the post of Weighing Machine Tester Grade-I at the Traffic Workshop, Jaipur Railway Division, Jaipur. He had passed the trade test relevant to the said job. He was also confirmed on the said post. vide order dated 15.10.87 the applicant was transferred from Workshop to Loco Shed, Jaipur as the post of Weighing Machine Tester Grade-I was abolished in the Traffic

Workshop Jaipur. When the applicant was so transferred, he was given the same designation and the same pay scale. Therefore, the applicant joined in the Loco Shed on the same post. On 22.4.92, the applicant was transferred from the post of Weighing Machine Tester Grade-I, Loco Shed, Jaipur to the post of Mill Wright Fitter Grade-I at Bandikui, on the ground that the post of Weighing Machine Tester Grade-I at Jaipur had been abolished. The applicant's case is that at Jaipur he had been performing the duties of Weighing Machine Tester only, which were to clean, adjust and test the Weighing Machines fitted in the various railway stations and other offices in the Jaipur Division. The applicant had never worked as a Fitter and he is not a qualified Fitter. By the order dated 22.4.92 (Annexure A-1) the applicant has been transferred to a different cadre i.e. of Mill Wright Fitter Grade-I. While transferring him, as above, his option was not taken.

3. After the transfer was effected by order dated 22.4.92 the applicant had filed an OA challenging his transfer to Bandikui on the post of Mill Wright Fitter Grade-I. By order dated 24.7.92 the Tribunal had directed that the applicant may submit a representation to the competent authority which shall dispose it of with due sympathy through speaking order within one month of the date of receipt of the representation. Liberty was given to the applicant to file a fresh OA, if necessary. Accordingly, the applicant submitted the representation to the DRM, Western Railway, Jaipur on 27.7.92 with a request to cancel his transfer to Bandikui in the cadre of Mill Wright Fitter Grade-I. The said representation was examined but the authority concerned did not find it possible to accede to the request of the applicant. The representation was accordingly rejected. Therefore, the applicant has filed the present OA.

4. During arguments, the learned counsel for the applicant has stated that the applicant is not qualified for the job of

Fitter, which is a technical job. Therefore, he is unable to discharge the duties of this post satisfactorily. He has stated that the applicant is now willing to serve anywhere in the Western Railway on the <sup>same</sup> post which he was holding at Jaipur or in another non-technical post which carrying the same scale of pay etc. Alternatively he has stated that the respondents may give training to the applicant for the post of Mill Wright Fitter, before asking him to discharge the duties of the said post, so that the applicant can perform his duties in a proper and efficient manner.

5. The learned counsel for the respondents has stated that the duties of the post at Bandikui, to which the applicant has been posted after the abolition of the post of Weighing Machine Tester Grade-I at Locl Shed, Jaipur, are very much similar to those being performed by him earlier and the duties expected to be performed by him now are not much of a technical nature. Therefore, the applicant can perform the duties of the new post also satisfactorily, if he so chooses. He has stated that after the order dated 24.7.92 passed by the Tribunal, it was examined whether it was feasible to offer the applicant another non-technical post but it was not found possible to do so. Thereafter, his representation, filed in response to the directions of the Tribunal contained in its order dated 24.7.92, was rejected.

6. We have heard the learned counsel for the parties and have gone through the records. The designation of the post which has now been offered to the applicant is Mill Wright Fitter Grade-I. Apparently this is a technical post and it was required technical skills to a certain degree to enable the applicant to perform the duties of this post. If the applicant is a technically trained or qualified person, he can perform the duties of the post satisfactorily so that both

the applicant and the administration gain from the services of the applicant. In the circumstances of the present case, we consider it necessary that the applicant should be given technical training which would enable him to discharge satisfactorily the duties of Mill Wright Fitter Grade-I.

7. We, therefore, direct that the respondents may provide an opportunity to the applicant to undergo necessary training to enable the applicant to discharge the duties of the post of Mill Wright Fitter Grade-I. Necessary action to provide training may be initiated within a period of one month from the date of receipt of this order.

8. The OA stands disposed of accordingly, with no order as to costs.

( O.P. SHARMA )  
MEMBER (A)

Gopal Krishna  
( GOPAL KRISHNA )  
MEMBER (J)