

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 216/93

Date of decision: 8.7.93

NAWAL KISHORE MEENA : Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

Mr. J.K. Kaushik : Counsel for the applicant.

Mr. U.D. Sharma : Counsel for the respondents.

CORAM:

Hon'ble Mr. O.P. Sharma, Administrative Member.

PER HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER:

Heard the learned counsel for the parties.

2. The applicant was transferred by order dated 21.10.92 from Bombay Division to Jaipur Division. The transfer order (Annexure A-3) was passed by the Divisional Operating Manager (Estt.), Bombay in the office of the D.R.M., Bombay Central, in view of the request made by the applicant for his transfer to Jaipur Division. On being relieved from the Bombay Division, the applicant reported for duty in Jaipur Division but the authorities in Jaipur Division refused to take him on duty. Vide letter dated 7.12.92 (Annexure A-1), the D.R.M., Bombay Central was informed that since Jaipur Division had not passed any order regarding transfer of the applicant, the services of the applicant were placed back at the disposal of the Bombay Division. Thereafter, the applicant filed an O.A. in this Tribunal on the ground that he had not been taken on duty in Jaipur Division and had not been given any pay and allowances although he had been transferred to Jaipur Division by a valid order. The said O.A. was disposed of by this Tribunal by order dated 3.3.1993 wherein the Respondent No. 2, namely, DRM, Jaipur, was directed to dispose of the applicant's representation in this regard on merits through a speaking order. It was further directed by this Tribunal that the applicant shall be retained in the office of the Respondent no.2 at Jaipur till the disposal of the said representation. The

applicant was, however, permitted to file ^a the fresh O.A. after the disposal of his representation, if he so chose.


3. Now the applicant has filed another O.A. after his representation has been disposed of by the DRM, Jaipur. In this O.A., he has prayed that the order passed by Respondent No. 2, namely, DRM, Jaipur for sending the applicant back from Jaipur Division to Bombay Division may be declared illegal and quashed.

4. The DRMs of Bombay Central and Jaipur Division are of equal rank. One DRM cannot unilaterally pass an order placing the services of one of his employees at the disposal of the another DRM, without obtaining the prior concurrence of the DRM at whose disposal his services have been placed. From the order passed by DRM, Jaipur it is clear that the DRM, Bombay Central transferred the applicant to Jaipur Division without consulting the DRM, Jaipur. Such an order ~~was~~ ^{would} even otherwise be administratively inoperative. While rejecting the applicant's representation, the DRM Jaipur has stated that the applicant has to go back to Bombay Division. However, he has also stated that the intervening period would be treated as on duty and pay and allowances shall be paid to the applicant for the said period. He has forwarded a copy of the ~~said~~ letter dated 31.3.93 rejecting the representation of the applicant (Annexure A-2) to the DRM, Bombay Central as well. In the circumstances of the present case, no relief is admissible to the applicant. However, the applicant has obtained a stay from this Tribunal on 16.4.93 against the operation of the order contained in the letter dated 31.3.93 asking him to go back to Bombay. The applicant shall be paid pay and allowances by the Jaipur Division from the date when he reported for duty at Jaipur initially in view of the orders of DRM, Bombay Central to the date of this order, and one week thereafter.

5. The Union of India through the General Manager, Western Railway, is one of the respondents in the present application. The General Manager, Western Railway, Bombay is directed to examine how a reportedly unilateral order was passed by the DRM, Bombay Central placing the services of the applicant at the disposal of DRM, Jaipur, without the concurrence of the latter, due to which the applicant has been put to a considerable degree of hardship. Thereafter, he should take appropriate action against the erring official or officials.

6. The payment of pay and allowances to the applicant for the period, referred to in para 4 above, shall be made within a period of one month from the date of receipt of this order, ~~and one week thereafter~~. The applicant should also be paid due transfer allowances as admissible under the rules to enable him to report back to Bombay for duty. The payment of such allowances to him shall also be made by Jaipur Division within a week of this order.

7. The O.A. is disposed of accordingly, with no order as to costs.


(O.P. SHARMA)
Administrative Member