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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 13.07.2000

O.A. No. 154/1994

1. Akhilesh Jhakar son of Shri Devi Sahai Jhakar aged about 8 years resident of Post Phulera, District Jaipur, presently working as Assistant Station Master, Railway Station, Phulera (Jaipur).
 2. Bajrang Singh Jhhala son of Shri Badri Narain Jhhala aged about 28 years resident of post Kishanmanpura, District Jaipur, presently working as Assistant Station Master, Railway Station, Kishanmanpura (Jaipur).
 3. Subhash Chand Dvedi son of Shri Bal Krishan Dvedi aged about 27 years resident of Bhainslana via Phulera, District Jaipur, presently working as Assistant Station Master, Railway Station, Bhainslana (Jaipur).
 4. Naveen Kumar Soni son of Shri Hulas Chand Soni aged about 8 years resident of post Khandel District Jaipur, presently working as Assistant Station Master, Railway Station (Jaipur).
 5. Jamana Prasad Meena son of Shri Mohan Lal Meena aged about 28 years resident of village Peepali Ka Bas via Phulera District Jaipur, presently working as Assistant Station Master, Railway Station, Peepali Ka Bas (Jaipur).
 6. Mohan Das Yadav son of Shri Vishamber Dayal Yadav aged about 8 years resident of post Phulera, District Jaipur, presently working as Assistant Station Master, Railway Station, Phulera (Jaipur).
 7. Balbir Singh son of Shri Ram Chandra Jat aged about 7 years resident of Badhal District Jaipur, presently working as Assistant Station Master, Railway Station, Badhal (Jaipur).
 8. Krishan Chandra Attri son of Shri Sheolal Attri aged about 46 years resident of Post Kund District Rewari (Haryana), presently working as Assistant Station Master, Railway Station, Western Railway, Kund (Rewari).
 9. Vishamber Dayal son of Shri Bhao Singh aged about 29 years resident of post Phulera, District Jaipur, presently working as Assistant Station Master, Railway Station, Phulera (Jaipur).
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10. Laxmi Kant Gupta son of Shri Kanhaiya Lal Gupta aged about 29 years resident of post Dantli, via Kanota, District Jaipur, presently working as Assistant Station Master, Railway Station, Khatipura (Jaipur).
 11. Vibhakar Pandey son of Shri Padmakar Pandey aged about 28 years resident of Dausa, presently working as Assistant Station Master, Railway Station, Khanbhandari.
- ... Applicants.

v e r s u s

1. Union of India through the General Manager, Western Railway, Church Gate, Bombay.
 2. Divisional Railway Manager, Western Railway, Jaipur.
- ... Respondents.

Mr. Mr. P.P. Mathur, Adv., Brief Holder for Mr. R.N. Mathur, Counsel for the applicants.

Mr. S.S. Hasan, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.
Hon'ble Mr. N.P. Nawani, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

In this application, the applicants have prayed for quashing of the orders at Annexure A/1, A/2 and A/3. The applicant has further prayed that the respondents be directed to give the pay scale of Rs. 1400-2300 (RP) to the applicants from the date they were transferred to Jaipur Division and they may also be directed to pay the arrears to the applicant with 18% interest per annum. The applicants have also prayed that the note appended to Rule 31 of the I.R.E.M. may be declared ultra vires to the extent it restricts transfer.

2. The applicants have stated in this application that while
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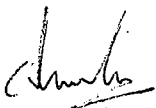
they were holding the post of Station Master/Assistant Station Master in the scale of Rs. 1400-2300 (RP), on their request, they were transferred to Jaipur Division in a lower grade at Rs. 1200-2040 (RP). The applicants have also voluntarily agreed for losing their seniority in the Jaipur Division. On the basis of such undertaking, the applicants have been transferred vide Annexures A/1, A/2 and A/3. The applicant No.1 is at sl. No. 6, applicant No. 2 is at sl. No.2, applicant No.3 is at sl. No.7, applicant No. 4 is at sl. No. 13, applicant No. 5 is at sl. No. 3 of Annexure A/2, applicant No. 7 is at sl. No. 12 at Annexure A/3, applicant No. 8^{is at} sl. No.14, applicant No. 10 is at sl. No. 8 and the applicant No.1 is at sl. No. 5 of Annexure A/1. The name of the applicants Nos. 6 and 9 are not found in any one of these Annexures. Therefore, the statement that the applicants Nos. 6 and 9 were transferred on their request to a lower grade on the basis of Annexures A/1, A/2 and A/3, appears to be not correct in respect of the applicants Nos. 6 and 9. Therefore, the applicant Nos. 6 and 9 being the persons not transferred by the impugned orders, they are not eligible for the reliefs as prayed for in this OA. Therefore, the claim of the applicants Nos. 6 and 9 is hereby dismissed. In respect of other applicants, whose names are found in Annexure A/1 to A/3, as stated above, their grievance is that they were transferred on their request to lower grade, but they are entitled to pay protection on the basis of CPO/MAS letter (number not legible) dated 21.12.94. However, the said letter has been taken on record as part of this judgement. The applicants has also referred to another letter of the Railway Board No. F(E)III/91/Misc/2(Pt) dated 2.12.96 in support of their arguments, which has also been taken on record. In the body of the application, they referred to Para 312 of the IREM


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contending that under this rule also, they are entitled to pay protection of the higher post that they were holding before their transfer to the lower grade.

3. On going through the circulars, we find that the applicants have to fulfil some conditions in order to get the benefit of pay protection of the higher grade when they have been transferred on lower grade on request. From the pleadings, we cannot decide whether they really fulfil these conditions or not for granting the benefit of pay protection. By looking ^{at} the impugned orders, we find that the applicants have been given lower grade Rs. 1200-2040 (RP), but there is no mention of granting pay protection, in these impugned orders. In these circumstances, we think it appropriate to direct the applicants to make a representation to the concerned respondent to consider their case for pay protection in terms of the two circulars referred to above. Hence, we pass the order as under:-

A 4. The application is disposed of with a direction to the applicants, except the applicants Nos. 6 & 9, to make representation to the concerned respondent within a period of one month from today and thereafter, the respondents may consider the same in terms of the two circulars referred to above, within a period of three months. No costs.


(N.P. NAWANI)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

cvr.