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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

O.A.NO.513/94

Date of order: 28.4.1997

Hasari Lal S/o Shri Sultan Singh, resident of Village Sultanpura, Post Bhesoda Mandi, Distt. Mansor (MF), at present employed on the post of Gangman, Gang No.30 under P.W.I. Bhawani Mandi, Western Railway.

: Applicant
Versus

1. Union of India, through General Manager, Western Railway, Churchgate, Bombay.
2. Sr. Divisional Engineer (I) Western Railway, Kota Division, Kota.
3. Assistant Engineer (South), Western Railway, Kota Division, Kota.

: Respondents

Mr. Shiv Kumar, counsel for the applicant
None present for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAH PFAKASH, MEMBER (JUDICIAL)

O R D E R
PER HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

In this application under Section 19 of the Administrative Tribunal's Act, 1986 Shri Hasari Lal has prayed that the order dated 18/11-1-1994 (Annex.A/1) by which the applicant's transfer from under P.W.I. Shamgarh to under P.W.I., Bhawani Mandi has been treated at the applicant's own request may be quashed and the respondents may be directed to implement the letter dated 6.1.1995 (Annex.A/8) being minutes of PNM meeting in which it was agreed that the transfer of the applicant would be treated as in the interest of administration and that he would be eligible for all the benefits including seniority in the transferred unit.

2. As per the facts stated by the applicant in his application, he was transferred from Gang No.30 to Gang No.16 under P.W.I., Bhawani Mandi in the interest of administration. During 1984 an office of Additional P.W.I. Shamgarh was

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established and some parts of the area of Bhawani Mandi Section and some other sections were placed under P.W.I. Shamgarh. The applicant came under P.W.I. Shamgarh. He submitted a representation dated 24.2.1989 that he may be transferred to his original seniority unit i.e. Gang No.20 under P.W.I. Bhawani Mandi. The authorities accordingly transferred him from Gang No.16 back to Gang No.20 with his original seniority vide letter dated 30.5.1989 (Annex.A/4). Subsequently a corrigendum was issued on 31.5.1989 treating the aforesaid transfer at the applicant's own request and assigning bottom seniority to the applicant. The applicant, however, declined to accept these terms. However, he was allowed to join his duties and the issue of seniority was left open to be decided later on. The applicant filed an OA No.289/93 before the Tribunal which was decided vide an order dated 3.11.1993 (Annex.A/3), whereby a direction was given to the respondents to take a decision on the representation of the applicant in this regard. The representation was rejected by the respondents vide order dated 18/21.1.1994 (Annex.A/1). The applicant has taken up the matter in the PNM (Permanent Negotiating Machinery) vide Item No.8/1993 seeking his transfer to be treated as in the administrative interest. The said ~~matter~~ has been finalised vide communication dated 6.1.1995 (Annex.A/8), which was subsequently taken on record, and the decision is in favour of the applicant. It has been decided that the transfer of the applicant would be treated as in administrative interest and the applicant would be eligible for all benefits including seniority. The applicant's prayer is, therefore, that now in view of aforesaid decision his transfer to Gang No.20 under P.W.I. Bhawani Mandi should be treated as in the interest of administration and his original seniority should not be disturbed on the ground that this transfer was at his own

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request.

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3. The respondents in their reply to the O.A., which was amended after the applicant came in possession of Annexure A/8, have stated that although the applicant has filed the minutes of the PNM meeting, but no order has yet been issued in this regard. When the applicant himself has sought a transfer to Bhawani Mandi, there is no reason to grant him higher seniority in contravention of the rules. The applicant has sought benefit of seniority etc., on the basis of the minutes of the meeting, though no final decision in this regard has been taken, nor has any order been passed by the administration in this regard.

4. We have heard the learned counsel for the applicant. None is present on behalf of the respondents. We have perused the material on record.

5. The contents of Annexure A/8 being the minutes of PNM meeting have not been disputed by the respondents. All that they have stated is that no order has been passed on the basis of the minutes of the said meeting and the applicant cannot ask for assigning of seniority on the basis of what has been recorded in the minutes. However, they have also stated that they have not yet passed any order on the basis of such minutes. In the circumstances of the present case, it would be appropriate for us to direct the respondents to pass a suitable order having regard to the decision regarding the applicant recorded in the minutes of the PNM meeting (Annexure A/8). If the applicant is aggrieved by any order passed by the respondents in this behalf, he is free to approach the Tribunal again, if he is so advised. Necessary order shall be passed by the respondents in pursuance of Annexure A/8 within a period of two

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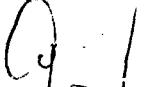
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months from the date of receipt of a copy of this order. The O.A. stands disposed of accordingly. No order as to costs.


(RATAN PRAKASH)

MEMBER (J)


(O.P.SHARMA)

MEMBER (A)