

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

C.P. No. 3/1994

Dt. of order: 1-3-1994

Khushi Ram

: Petitioner

Vs.

Shri J.D.Kalla : Respondents
Divisional Railway Manager
Western Railway, Kota Divn.,
Kota & Anr.

Mr. J.K.Kaushik : Counsel for petitioner

Mr. Manish Bhandari : Counsel for respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Member (Judl.)

Hon'ble Mr. O.P. Sharma, Member (Adm.).

PER HON'BLE MR.O.P.SHARMA, MEMBER (ADM.).

Khushi Ram has filed this Contempt Petition against S/Shri J.D.Kalla, Divisional Railway Manager, Western Railway, Kota Division, Kota and Harjendra Singh, Senior Divisional Engineer(E), Western Railway, Kota Divn., Kota, on account of their alleged defiance of the order passed by this Bench of the Tribunal.

2. Petitioner Khushi Ram, who had attained the temporary status as Khalasi on 22.3.86 in Kota Division, had earlier filed an O.A. No.596/93 being aggrieved by his transfer from Kota Division to Ratlam Division, although a number of persons junior to the applicant had been retained in Kota Division. In this application he had also referred to the seniority list issued by the Kota Division to support his claim that he was senior to some of the persons retained in Kota Division. He had represented to the authorities concerned in the matter. The transferring authority vide a letter dated 5.7.93 (Annex.A5) in the O.A. had taken up the matter with the second respondent in the O.A. namely Divisional Railway Manager, Western Railway, Kota Division, Kota. This application was disposed of by this Bench with the direction amongst others that respondent No.2 i.e. Divisional Railway Manager, Kota Division, shall take appropriate action on the letter.

by the Executive Engineer(Construction), Kota, dated 5.7.93 (Annx.A-5) within a period of 2 months from the date of receipt of a copy of the Tribunal's order dated 21.10.93. In the said letter at Annx.A-5, the Executive Engineer(Construction) had written to the Divisional Railway Manager, Kota that certain Group-D employees engaged on construction work had been transferred to Ratlam Division on the basis of seniority and that they had objected to their transfer and had prayed that they may be retained at Kota Division and their juniors working in Kota Division should be transferred. The Executive Engineer had therefore enquired from the Divisional Railway Manager, Kota that it may be determined whether persons junior to them were still working in Kota Division. It was with regard to this letter that this Bench of the Tribunal had desired that the Divisional Railway Manager Kota should take appropriate action within a period of 2 months from the date of receipt of a copy of the order of the Tribunal dated 21.10.93.

3. There was a further direction in the order of the Tribunal that the respondents shall not relieve the applicant from the post of Khalasi in Kota Division, if he had already not ^{been} relieved so far, till appropriate action was taken by the Divisional Railway Manager, Kota Division, on the letter Annx.A-5 to the O.A.

4. In the Contempt Petition, the petitioner has now stated that after he presented the Tribunal's order to the respondents, he was not taken on duty in accordance with the directions of the Tribunal and he was told that his name has already been removed from the rolls as he had been transferred. However, he had not been issued any relieving order. In a communication dated 22.11.93 (Annx.A4) by the Divisional Railway Manager, Kota to the Sr.Divisional Engineer(E) Kota Division, it has been mentioned that the combined seniority list is maintained only for the purpose of screening of casual labour and not for the purpose of ..3.

transfer. The petitioner has claimed that there is only one seniority unit in the whole Division in respect of the project casual labour for all purposes and the respondents are deliberately flouting the orders of the Tribunal just to harass the applicant. Further according to him, he is being kept out of employment in clear disregard of the directions of the Tribunal.

5. The respondents, in their reply have denied that they had defied the order of the Tribunal. According to them after receipt of the Tribunal's order, the matter was examined thoroughly and a communication was sent to the respondent No.2 in the Contempt Petition, on 22.11.93 (Annex.A-4). Thereafter, a further letter dated 2.2.1994, was written to the applicant (Annex.R-1) which explains the whole position of the applicant and the transfer policy. The respondents have further stated that if the applicant is aggrieved by the decision taken by the administration he can file a separate O.A.

6. Annexure :A-4 to the present Contempt Petition is a letter dated 22.11.93 addressed by the Divisional Railway Manager, Kota Division to the acting Engineer (Construction) Kota in reply to the letter dated 21.10.93 and an earlier letter dated 5.7.93 (Annex.A-5) to the O.A. In this letter, it has been stated that no casual labour who have been transferred have been again accommodated within the Kota Division. It has further been stated that whenever any future casual labour is needed on open line, they will be transferred to Kota Division on the basis of their seniority. It has further been stated that in the said letter that the seniority list dated 16.11.92 is for the purpose of screening and not for the purpose of transfers. Annex.R-1 explains the matter in great detail. It has been stated therein that in spite of the work being completed in Kota Division the Railway has not chosen to retrench casual labour. On the other hand with a view to continuing

them in gainful employment they have been transferred to Ratlam Division where work is available. The orders of combined seniority list are not for the purpose of effecting transfers.

7. We have heard the learned counsel for the parties and have perused the records. Annex.A-5 to the Contempt Petition contains a categorical denial that any casual labour employed on construction project in Kota Division has been readjusted in the Division after transferout. It has further been stated that the seniority list presented by the petitioner in the O.A. is for the purpose of screening and not for the purpose of transfers. The respondents have thus denied that the seniority list presented by the petitioner in the O.A. could be the basis for transfer of casual labour out of Kota Division. What is however to be noted for the purpose of disposal of the contempt petition is that the Divisional Railway Manager, Kota, has examined the matter and has sent, what according to him is, an appropriate reply to Annex.A-5 to the O.A. Thus the directions of the Tribunal contained in the order dated 21.10.93 have been complied with. At this stage we cannot go into the correctness or otherwise of the said examination and the reply sent to Annex.A-5. Further our direction regarding not/~~transferring~~ the applicant was limited to a situation in which he had not yet been transferred. Since according to the respondents the applicant had already been transferred to Ratlam Division where work was available, there was no question of taking the petitioner back in service in Kota Division in pursuance of the Tribunal's order.

8. If the applicant believes that the seniority list presented by him alongwith the O.A. is for all the purposes including transfers and the seniority ~~and~~ this list has been disregarded while making transfers, he is free to file a fresh O.A. in this regard.

9. With the above observations the Contempt Petition is dismissed and the notices to the alleged contemners are discharged. Parties to bear their own costs.

O.P.Sharma
Member(A).

G.Krishna
(Gopal Krishna)
Member(J).