

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.594/94

Dt. of order: 28.3.1995

Gauri Shanker

: Applicant

Vs.

Union of India & Anr.

: Respondents

Mr.P.V.Calla

: Counsel for applicant

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.).

In this application under Sec.19 of the Administrative Tribunals Act, 1985, applicant Shri Gauri Shanker has prayed as under:

"That on the basis of the facts and grounds mentioned here-inabove, it is humbly prayed that the Hon'ble Tribunal may kindly call for and examine the entire record relating to this case and by an appropriate order or direction the impugned memorandum dated 17.11.'94 (Annx.A1) may kindly be declared illegal and quash the same. The respondents be directed not to pass any order transferring the applicant from one division to another division if the work of gauge conversion is completed.

Respondents be further directed to adhere to the instructions mentioned in the letter dated 14.5.92 (Annx.A2) and send the applicant to his parent Division i.e. Kota Division."

2. The case of the applicant in brief is that he was engaged as casual labour in Kota Railway Electrification Project. His seniority is maintained in the said Project and he has been granted temporary status in that Project. By Annx.A2 dated 14.5.92, he was sent to Jaipur Construction Project and it was specifically directed in the said order that on completion of the work he would be directed to report back to Kota Division for absorption. However, on completion of the work in Jaipur Construction Project, he has been deployed in other Division in the Western Railway. His grievance is that the respondents have not adhered to the terms of letter Annx.A2 dated 14.5.92 under which they were sent to Jaipur Construction Project and on completion of work there he was asked to report back to Kota Division. He has, therefore, sought

directions as above.

3. No reply has been filed by the respondents.


4. We have heard the learned counsel for the parties and have gone through the records. It is undisputed that the seniority of the applicant is maintained at Kota Division and he has also been granted temporary status there. He was initially transferred to Jaipur Construction Project on completion of work in Kota Electrification Project and thereafter on completion of the Construction Project work in Jaipur Division, he has been further transferred to other Division within the Western Railway. No doubt the order regarding transfer of the applicant first to Jaipur Construction Project and thereafter to other neighbouring Division was passed in the interest of administration but it cannot be said that the applicant was also not at all benefitted by this approach of the administration, in as much as, he was engaged on ongoing Project rather than being retrenched on completion of the Project work in Kota Division.

5. By way of an interim direction issued on 30.11.94, the respondents were directed not to implement the impugned order Annx.A1 dated 17.11.94, if the applicant had not so far been relieved. In the circumstances of the case and after hearing the counsel for the parties, we direct that the applicant may be continued to work on the Project on which he is employed at present and on completion of the work in the Project, he shall be transferred back to Kota Division in terms of the direction contained in Annx.A2 dated 14.5.92. He shall of course continue to retain his seniority in Kota Division, where he has already been granted temporary status. He shall also be considered for regularisation in Kota Division, as per the existing policy, rules and instructions.

6. During the arguments, the learned counsel for the applicant stated that if the transfer of the applicant to first Jaipur Construction Project and thereafter to other Division is upheld,

he should at least be granted transfer allowance to enable him to move to this Division. The learned counsel for the respondents stated that as per rules such transfer allowance is not admissible to casual labour. At the same time it appears to us that casual labour is not liable to transfer from one Division to other in ordinary course. It is in extraordinary circumstances and also in the interest of administration that his transfer has been effected. In such circumstances as per the interim direction already issued, the respondents are directed to grant transfer allowance to the applicant which would have been otherwise admissible to him had he not ^{been a} casual labour/temporary status holder.

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


(O.P. Sharma)
Member (A).


(Gopal Krishna)
(Member (J)).