

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR.

Original Application No. 13/2004

Date of decision: 12.10.2004

Hon'ble Mr. Kuldip Singh, Vice Chairman.

Hon'ble Mr. M K Misra, Administrative Member.

1. Jagdish Prasad, S/o Chiranji Lal R/o Brij Nagar, Distt. Bharatpur.
2. Shri Narayan S/o Mool Chand, R/o Railway Colony, Alwar.
3. Hari Singh, S/o Radha Kishan, R/o Railway Colony, Gordhan Distt. Bharatpur.
4. Bashir, S/o Kalekhan, R/o Railway Colony, Deeg, Bharatpur
5. Ratan, S/o Rooparam R/o Railway Colony, Jhadoli Ka Bas, Alwar.
6. Ashraf, S/o Shafi R/o Railway Colony, Gordhan, Bharatpur
7. Ramphool, S/o Rampratap, R/o Railway Colony, Deeg Bharatpur.
8. Gajendra Singh, S/o Ram Chandra R/o Railway Colony, Jhadoli Ka bas Alwar.
9. Jilesingh, S/o Amilal, R/o Railway Colony, Ramgarh, Alwar
10. Chote Lal, S/o Jwala R/o Railway Colony, Uonthwal, Alwar.
11. Sobhan Lal S/o Paltu R/o Railway Colony, Gordhan, Bharapat.
12. Chandan, S/o Shri Narayan R/o Railway Colony, Brij Nagar Bharatpur.
13. Partya, S/o Lala R/o Railway Colony, Govind Garh, Alwar.
14. Banshi, S/o Chittar, R/o Railway Colony, Govind Garh, Alwar.
15. Ramesh, S/o Gulab Chand R/o Railway Colony, Uonthwal Alwar.
16. Gagan Singh, S/o Dyalaram, R/o Railway Colony, Mathura (UP)
17. Dharam Singh, S/o Balu, R/o Railway Colony, Jhadoli Ka Bas Alwar.

 : Applicant.

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18. Phool Singh, S/o Shri Rám R/o Railway Colony, Alwar.
19. Gordhan, S/o Kishna, R/o Railway Colony, Jhadoli Ka Bas Alwar.
20. Prabhati, S/o Ramlal R/o Railway Colony, Ramgarh, Alwar.
21. Khiladi, S/o Surajmal, R/o Railway Colony, Deeg, Bharatpur.
22. Hari Shankar, S/o Doosa, R/o Railway Colony, Deeg, Bharatpur.
23. Badruuddin, S/o Allahkhan, R/o Railway Colony, Deeg, Bharatpur.
24. Chote Lal, S/o Gopal, R/o Railway Colony, Deeg Bharatpur.
25. Prabhu, S/o Bhoori Lal, R/o Railway Colony, Brij Nagar, Bharatpur.

: Applicants.

rep. by Mr. Kunal Rawat, : Counsel for the applicants.

VERSUS

1. The Union of India through its Secretary to the Government, Ministry of Railway, Rail Bhawan, New Delhi.
2. Senior Divisional Engineer, North West Railway, Divisional Railway Office, Jaipur.
3. Divisional Railway Manager, DRM Office, Jaipur.

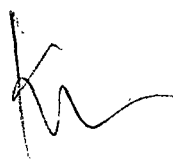
: Respondents.

rep. by Mr. Anupam Agarwal: Counsel for the respondents.

ORDER (Oral)

Per Mr. Kuldip Singh, Vice Chairman.

Earlier this joint O.A has been filed by 26 persons. During the pendency of this O.A, the first applicant Ramkaran expired and the O.A is restricted to 25 persons vide order dated 26.08.2004. The applicants have challenged the order dated 31.10.2003 vide which the earlier order dated 31.03.2003 had been cancelled.



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2. The facts in brief as alleged are that vide order dated 31.03.2003, the applicants who were working as Mate and Keyman in Brij Nagar Railway Station, were transferred to different places as per the option given by them. It is stated that this order had not been implemented by the respondents so far, despite the fact that the applicants had approached the respondents to give effect to the order dated 31.03.2003 and to relieve them from the present place of posting enabling them to join at the new place of posting. The applicants, apprehending that the respondents are going to cancel the order dated 31.03.2003 had filed O.A. No. 449/2003. In the said O.A notices were issued to the respondents. On receipt of the notices the respondents filed a copy of the order dated 31.10.2003 before this Tribunal cancelling the earlier order dated 31.03.2003. A Hon'ble Single Member of this Bench, vide order dated 09.12.2003, dismissed the O.A as having become infructuous giving liberty to the applicants to agitate against the order dated 31.10.2003, if they had any grounds. It is further stated that since new divisions were added in the month of March 2003, options were invited from large number of persons including the employees from Northern Central Railway to fill up vacancies which the applicants were holding. However, neither the applicants were adjusted in pursuance to their options nor they were allowed to continue at the place of posting which they were holding. It is stated that the action of the respondents in not allowing the applicants to join their duty in new place of posting as per the order dated 31.03.2003 is wholly arbitrary and illegal. Therefore it is prayed that the order dated 31.10,2003 be quashed.

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3. The respondents have opposed the O.A. In their reply, they have pleaded that the order dated 31.03.2003, was issued when the new divisions had not been culled out and the new divisions were created with effect from 01.04.2003. The respondents further pleaded that after the new divisions were created, Annex. A/2 dated 31.10.2003 was passed. It is stated that Annex A/1 was issued prior to coming into force of Agra Division, which was at the relevant point of time was under the control of Jaipur Division. Therefore, AEN, Bandqui has posted persons mentioned therein in different stations of Jaipur Division, but that was done when the Agra Division was not created. But after 01.04.2003, a new Agra Division was created and hence the order passed by AEN Bandqui was not given effect to and it is denied that any option was asked from the applicants. It is also stated that it was wrong that the applicants ever submitted their option to remain in Jaipur Division. The respondents further submitted that the order dated 31.10.2003 being a cancellation of transfer order it has nothing to do with the formation of new divisions. It is also stated that the respondents have got power to transfer persons within their divisions as per the instructions of the Railway Board.

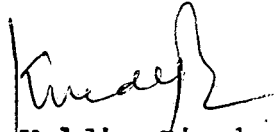
4. We have heard the learned counsel for the parties and gone through the records. The learned counsel for the applicants was satisfied to the extent that the order dated 31.03.2003 was passed before the creations of new divisions and this order was passed earlier by AEN Bandiqui, placing the services of the applicants at different stations. But this order could not be given effect to because of various administrative reasons. However, immediately, on the

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next day i.e. on 01.04.2003, new divisions were created. Thus the respondents have not erred in passing the order dated 31.10.2003 cancelling the earlier order dated 31.03.2003, which was issued a day prior to the creation of new divisions. The order dated 31.10.2003 was passed by a superior officer than AEN, Bandiqui who passed the order dated 31.03.2003. As per the rules, the applicants cannot challenge an order which was issued by a competent authority, unless it is tainted with malafides. There is no allegation of malafides at all. Moreover the order has been passed for administrative reasons.

5. In view of the above discussion, we find no merit in this O.A and the same is liable to be dismissed and accordingly it is dismissed. However, if the applicants make a representation within a period of one month from today against the order dated 31.10.2003, the same shall be disposed of by a reasoned speaking order within four months from the date of receipt of such representation. No costs.


(M K Misra)
Administrative Member


(Kuldip Singh)
Vice Chairman

jsv.