

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

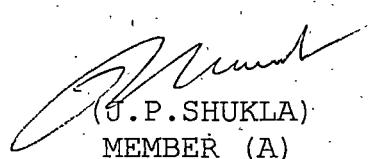
16.1.2008

OA 14/2008

Mr. Nand Kishore, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents.

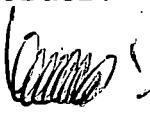
Heard the learned counsel for the parties.
The OA stands disposed of by a separate order.

Explanatory
and
JL
18/11/08


(J.P. SHUKLA)

MEMBER (A)

vk


(M.L. CHAUHAN)
MEMBER (J)

N IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 16th day of January, 2008

ORIGINAL APPLICATION NO.14/2008

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

Babu Lal Dholpuria,
Law Assistant,
DRM Office,
West Central Railway,
Kota.

... Applicant

(By Advocate : Shri Nand Kishore)

Versus

1. Union of India through
General Manager,
West Central Railway,
Jabalpur.
2. Divisional Railway Manager,
West Central Railway,
Kota.
3. Shri Ramavtar Sharma,
Sr.Divisional Personnel Officer,
West Central Railway,
Kota.
4. Shri Ram Singh Punia,
Sr.Dvl.Manager,
West Central Railway,
Jabalpur.

 ... Respondents

(By Advocate : - - -)

ORDER (ORAL)

PER HON'BLE MR.M.L.CHAUHAN

The applicant has filed this OA against the order dated 18.12.2007 (Ann.A/1), whereby Law Assistants in the scale of Rs.6500-10500 have been promoted to the post of Chief Law Assistants in the scale Rs.7450-11500 and have been ordered to be transferred on account of such promotion. Perusal of this order reveals that only nine persons were promoted and were posted almost at the same station even on promotion. Admittedly, the applicant, whose name find mention at S.No.10, has not been promoted. As such, in terms of the aforesaid order, it was not permissible for the authority to transfer him. However, his name has also been incorporated contrary to the finding recorded by the authority in the earlier part of this order.

2. Grievance of the applicant is that such action of the respondents is wholly arbitrary, malafide and against the policy issued by the Railway Board. Learned counsel for the applicant has placed on record copy of the instructions issued by the Railway Baord dated 20.7.78 (Ann.A/2), which stipulate that transfer of SC/ST should, as far as practicable, be confined to their native districts. The applicant has placed on record sufficient material to show that he had also approached the Apex Court for grant of relief and in its latest order the Apex Court has directed the applicant to file a representation regarding his promotion and in face of it he has made such representation on 11.7.2007 (Ann.A/7). According to the learned counsel for the applicant, this was the

main cause for transferring the applicant from Kota to Jabalpur.

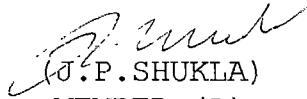
3. We have given due consideration to the averments made by the learned counsel for the applicant. From the material placed on record, it is evident that the applicant has also made a representation dated 7.1.2008 regarding his transfer to respondent No.4, which representation has not been decided so far. Learned counsel for the applicant has further stated that even the applicant has made a request to the authorities to adjust him in the office of Deputy Chief Engineer (Construction), Kota, vide Ann.A/9, and in case the applicant has to be shifted, he could have been adjusted at his original place.

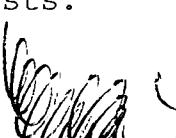
4. Shri Anupam Agarwal, learned counsel for the respondents, put in his appearance and submitted that the applicant has been relieved, as such, the order has come into operation. We see no force in the contention so raised by the learned counsel for the respondents.

5. We have heard the learned counsel for the parties and gone through the material placed on record. We are of the view that the matter can be disposed of at admission stage itself. From the perusal of impugned order dated 18.12.2007 (Ann.A/1), it is revealed that this order was made only for the purpose of transferring the persons who have been promoted from the scale of Rs.6500-10500 to that of Rs.7450-11500. Name of the applicant has also been inserted in the said order at S.No.10 although he has not been promoted. All the nine persons who were promoted have been adjusted on promotion at the same station, whereas the applicant, who has not even been promoted, has been transferred to Jabalpur. Since the applicant

has made a representation to respondent No.4, which is pending consideration, we are of the view that it will be in the interest of justice if a direction is given to respondent No.4 to decide the said representation by passing a reasoned and speaking order and to consider the case of the applicant regarding alternate posting in the office of Deputy Chief Engineer, (Construction), Kota, as requested vide his representation. Since no person has been posted in place of the applicant, we are of the view that it will be in the interest of justice if the applicant is permitted to continue at the same place of posting at which the applicant was working prior to passing of the impugned order dated 18.12.2007. The applicant shall be permitted to join on the aforesaid posting on presentation of copy of this order. This order shall continue to operate till the representation of the applicant is decided by respondent No.4. In case the applicant is still aggrieved, it will be open for him to file a substantive OA thereby challenging the impugned order.

6. With these observations, the OA stands disposed of at admission itself with no order as to costs.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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