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Date of Decision: 30.1.96.

OA 305/95

Mohd. Sabbir

... Applicant.

Versus

Union of India and others

... Respondents.

CORAM:

HON'BLE MR. GOPAL WISHNIA, VICE CHAIRMAN

HON'BLE MR. G.F. SHAFMA, MEMBER (A)

For the Applicant

... Mr. Shiv Kumar

For the Respondents

... Mr. Manish Bhandari

O R D E R

BEF HON'BLE MR. GOPAL WISHNIA, VICE CHAIRMAN

Applicant, Mohd. Sabir, has, in this application u/s 19 of the Administrative Tribunals Act, 1985, sought a direction to the respondents to allow him to resume his duty at Kota pursuant to the transfer order dated 16.6.95 (Ann.A-2) on the post of Driver.

2. We have heard the learned counsel for the parties and have carefully perused the records. The counsel for the parties have agreed to this matter being disposed of at the stage of admission.

3. The applicant was appointed as a casual Driver on 21.1.82 in the Kota Division of the Western Railway. He was granted temporary status on 1.1.84. He is drawing pay in the scale of Rs.950-1500. The applicant was transferred from his parent Kota Division to the Jaipur Division, at Bandikui, on 31.12.92 to work in the Construction Project. He became surplus and thereafter he was routed for further posting to the Inspector of Works (C) EG-1, Jaipur, vide letter dated 12.6.95 (Ann.A-1). The applicant reported for duty to the IOW (C) EG, Jaipur. Due to the availability of two vacancies in the parent Division, the applicant submitted his willingness for the same. However, Rafiq Mohd., who reported for duty to respondent No.3, was taken on duty but the applicant was not allowed to resume his duty at Kota. It is stated by the respondents in the reply that Rafiq Mohd. had reported on duty prior to the applicant and he was, therefore, taken on duty. The applicant was not taken on duty in the Kota Division in view of the subsequent developments which had taken place in the Construction Unit of Kota. In the circumstances, the applicant should have reported at the place from where he was transferred but till date the applicant did

C. S. Bhandari


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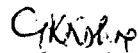
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not report on duty. It is also stated by the respondents that the applicant has now been posted at Gandhi Nagar (Jaipur) in view of the cancellation of his transfer by Ann.R-1 dated 13.9.95.

4. It is pertinent to note that, as the applicant has stated in the rejoinder, the order at Ann.R-1 dated 13.9.95 was not delivered to the applicant and he received the same when a reply to the OA was filed by the respondents. It has been categorically stated by him that he has never refused to accept the order at Ann.R-1. It has also been stated by the applicant in the rejoinder to the reply filed by respondents nos.1 and 2 that the applicant had not refused to join duty at Jaipur (Gandhi Nagar). He has further stated that Shri Laxman Singh shall superannuate on 31.1.96 and the applicant can be adjusted at Kota and posted vice Shri Laxman Singh on his retirement. The learned counsel for the respondents has stated that since the applicant has been posted at Gandhi Nagar, Jaipur, he should join at Gandhi Nagar, Jaipur.

5. In the circumstances, we direct respondents nos.2 and 3 to consider the applicant's case for transfer in the Construction Unit of the Kota Division of Western Railway as and when there is a vacancy. The OA stands disposed of accordingly with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRISHNA)
VICE CHAIRMAN

VK