

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 17.8.2001

OA 120/95

1. Sunil Soni, Assistant Station Master, Rawatha Road, Kota Division.
2. Pradeep Kumar Sharma, Assistant Station Master, Baran, Kota Division.
3. Sarwar Ali, Assistant Station Master, Bhulon, Kota Division.
4. Gajendra Kumar, Assistant Station Master, Dadhdevi, Kota Division.

... Applicants

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota.

... Respondents

CORAM:

HON'BLE MR.JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicants ... Mr.P.P.Mathur

For the Respondents ... Mr.Anupam Agarwal, proxy
counsel for Mr.Manish Bhandari

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, applicants, named above, have prayed for quashing the impugned order dated 10.2.95 (Ann.A/1) and for a direction to the respondents not to send them back to Ratlam Division and further for a declaration that they are entitled to remain in Kota Division and would be eligible for their seniority in Kota Division from the date of their initial appointment.

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2. Applicants' case is that they were recruited as Assistant Station Masters (ASM, for short) through Railway Recruitment Board and were sent for training in the Zonal Training School, Udaipur. In terms of respondents' letter dated 17.11.94 (Ann.A/3) all the four applicants were allocated to the Kota Division. Subsequently, vide letter dated 10.2.95 all the applicants were repatriated to their original Ratlam Division. Contention of the applicants is that they were given appointment by the Kota Division. It has further been stated that when the posts against direct recruitment quota were increased, allotment of division to the applicants was changed vide letter dated 17.11.94. It is also pointed out by the applicants that there are 16 ASMs who are willing for their transfer from Ratlam Division to Kota Division but the Ratlam Division was not willing to spare them and hence these persons were not spared for transfer on the post. Feeling aggrieved, the applicants have filed this OA.

3. In the counter it has been stated by the respondents that the applicants were working in the Ratlam Division. After the allotment of division, one can only be transferred to other division in order of preference which is mentioned in the name noting register for the purpose of transfer. It is also pointed out that all the applicants were given appointment in Ratlam Division and were posted to Dahod Railway Station. It is also pointed out by the respondents that the applicants have not approached the Tribunal with clean hands. As a matter of fact, they were posted to Ratlam Division and they had resumed their duties at Dahod Railway Station, prior to resumption of their duties at Kota. It is also pointed out by the respondents that the employees who were appointed prior to the

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applicants were waiting for their turn for transfer to Kota Division. In the circumstances, it has been averred by the respondents that the OA is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

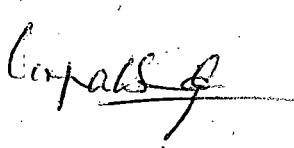
5. It is a fact that all the applicants were appointed in Ratlam Division and were posted to Dahod Railway Station, as would be cleared from respondents' letter dated 8.12.94 (Ann.R/1). It is also seen from Ann.A/1, letter dated 10.2.95, that the applicants have made request for transfer to Kota Division. However, with their transfer vide respondents' letter dated 17.11.94 some 116 ASMs working in various divisions also applied for their transfer to Kota and it has been represented by these ASMs that out of turn transfer of the newly recruited ASMs was against the rules and regulations on the subject. As a matter of fact, their names should have been noted and their request for transfer could have been acceded to on their turn. Accordingly, it was decided by the respondents to repatriate the applicants to their original division i.e. Ratlam. It is a fact that there is a procedure of name noting in the railway department for request transfers. A person can get his name registered for transfer and his case would be considered as and when his turn comes and a vacancy is available at the desired place. In the instant case, the applicants have been transferred out of turn, which has created administrative problems for the respondent department and we are of the view that the respondent department was within their rights to repatriate the applicants back to their parent division namely the Ratlam Division. On a specific query to the learned counsel for the applicants to quote

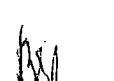
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the rules and regulations under which the applicants could not be repatriated to Ratlam Division, he expressed his inability to produce any such document or rule. The learned counsel for the applicants has also tried to make distinction between the direct recruit ASMs and promotee ASMs and he has pointed out that the promotee ASMs have submitted their applications only after the direct recruit applicants have been allocated to the Kota Division. As has been pointed out above, the out of turn allotment of the applicants to Kota Division has created an administrative problem and this would entitle them to acquire seniority over and above their seniors who would be transferred to Kota Division subsequently. It may also be pointed out that the applicants had got their transfer to Kota Division through the Staff Union. It is not expected from the direct recruits to immediately approach the Unions to get their work done. Such a tendency has to be curbed.

6. In the light of above discussion, we do not find any merit in this application and the same deserves to be dismissed.

7. The OA is accordingly dismissed. In terms of our interim order dated 15.5.95 the operation of the impugned order dated 10.2.95 (Ann.A/1) was stayed qua applicants No.2,3 & 4 namely Pradeep Kumar Sharma, Sarwar Ali and Gajendra Kumar and they have been continuing in the Kota Division in terms of our interim order. Continuance on the post of ASM in Kota Division by applicants No.2,3 & 4 (named above) in terms of our interim order dated 15.5.95, would not entitle them to seniority in the cadre of ASMs of Kota Division. They would be entitled to seniority in Ratlam Division as per rules. No costs.


(GOPAL SINGH)
MEMBER (A)


(B.S. RAIKOTE)
VICE CHAIRMAN