

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

Original Application No. 291/00426/2014 with
Misc. Application No. 291/00107/2015

Order reserved on: 16/07/2015

Date of order: 20./07/2015

CORAM:

HON'BLE MR. JUSTICE HARUN UL RASHID, JUDICIAL MEMBER
HON'BLE MR. R. RAMANUJAM, ADMINISTRATIVE MEMBER

Anuja Gupta Daughter of Shri G.K. Gupta, aged about 32 years
resident of C/o Shri Umesh Jain, Servershwar Nagar, Near Ranu
Studio, Ajmer and presently working as Health & Malariya
Inspector (Grade-I) Office of Chief Works Manager (Loco
Workshop), North Western Railway, Ajmer Division, Ajmer.

.....Applicant.

(Mr. C.B. Sharma counsel for the applicant.)

Versus

1. Union of India, through General Manager, North Western
Zone, North Western Railway (Head Quarter), Near Jawahar
Circle, Jagatpura, Jaipur-302017.
2. Divisional Railway Manager, North Western Railway, Ajmer
Division, Ajmer.
3. Chief Medical Superintendent, North Western Railway, Ajmer
Division, Ajmer.
4. Chief Works Manager (Loco Workshop), North Western
Railway, Ajmer Division, Ajmer.

.....Respondents.


(Mr. Anupam Agarwal counsel for the respondents.)

ORDER

(Per: Mr. R. Ramanujam, Administrative Member)

This Original Application has been made against the impugned order dated 22/07/2014 of the respondent No. 2 whereby transfer of the applicant from Abu Road to Ajmer made earlier by order dated 10/07/2014 was cancelled. The applicant belongs to the cadre of Health and Malaria Inspector (Grade-I) and was working in Pay Band 9300-34800 with grade pay of Rs. 4200/- as on 18/06/2009. On 16/07/2012, she was allowed grade pay of Rs. 4600/- and posted at Abu Road. The respondent allegedly carried out a restructuring of the cadre and thereafter passed the order dated 10/07/2014 by which one Shree Man Mohan Singh holding the post of Health & Malaria Inspector Grade-II with grade pay Rs. 4200/- and working in Ajmer was also promoted to the grade pay of Rs. 4600/- and posted at Abu Road.

2. In pursuance of transfer order dated 10/07/2014, the applicant reported at Ajmer on 15/07/2014. In the meantime, the said Shri Man Mohan Singh Rathore submitted his unwillingness for promotion. This created a difficulty in the joining of the applicant in Ajmer. However, at this stage this Tribunal by an interim order dated 30/07/2014 directed the respondents not to give effect to the office order dated 22/07/2014 till the next date, if one post of Health Inspector Grade-I was still vacant at Ajmer. The interim order was passed



on the basis of the submission by the applicant that there were eight posts of Health Inspector Grade-I at Ajmer out of which only seven posts were filled and there was a clear vacancy. The applicant had claimed that Shri Man Mohan Singh Rathore was working as Health Inspector Grade-II and his refusal to go on promotion would not make any material difference in total strength of the Health Inspector Grade-I, if, she was allowed to join.

3. The respondents contested the claim of the applicant on the ground that the applicant was posted against the vacancy that would arise as a result the posting on promotion of Shri Man Mohan Singh Rathore at Abu Road. Since this did not materialize, it was not possible to allow the applicant to join as there was no other available post. The respondents have subsequently filed Annexure-MA/1 order dated 24/02/2015 by which the applicant has been posted in Ajmer. This, according to the respondent has rendered the OA infructuous as the relief sought for by the applicant has already been granted.

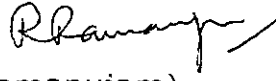
4. Heard the learned counsel for the parties and perused the documents on records. The learned counsel for the applicant argued that the although the applicant has since been posted in Ajmer by Annexure-MA/1 order, the issue is not fully settled as the period of 15/07/2014 to 24/02/2015 needs to be regularized. Annexure-MA/1 is silent on how the regularization of this period would be done. The learned counsel for the respondents, however, submitted that the main grievance of

the applicant has already been redressed and it is only a matter of detail, how the interregnum would be treated. Orders would be issued as per applicable rules/instructions on the subject in due course. Since the main relief sought by the applicant is infructuous, the OA is fit to be dismissed.

5. After carefully considering the rival submissions, we are of the view that the OA has indeed become infructuous following the issue of Annexure-MA/1 order. The applicant now stands posted to Ajmer and nothing survives in respect of her main grievance. As for regularization of the period between 15/07/2014 and the date of the Annexure-MA/1 order, it shall be done as per the relevant rules and orders in force as applicable. Whether a vacancy of Health and Malaria Inspector Grade-I actually existed during this period is a matter of fact. If, there was a clear vacancy against which the applicant could be accommodated, the respondents shall issue orders to regularize this period accordingly. However, if, there was no vacancy, the respondents shall be free to regularize this period in any other manner in accordance with rules and consistent with the principles of natural justice. The applicant shall be heard by the competent authority before taking a final decision which shall be made by a reasoned and speaking order within a period of two months from the date of receipt of this order.

6. OA is disposed of accordingly. No order as to costs. In view of the order passed in Original Application, Misc.

Application No. 291/00107/2015 for vacation of I.R. also stands disposed of.



(R. Ramanujam)
Administrative Member



(Justice Harun Ul Rashid)
Judicial Member

Vv