

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**Original Application No. 291/00725/2014**

**Order Reserved on : 29.01.2016**

**Date of Order: 09-02-2016**

**CORAM**

**Hon'ble Ms. Meenakshi Hooja, Administrative Member**

Khajan Singh Son of Shri Badan Singh, aged about 39 years, resident of Quarter No. 1648-A, Giri Marg, Railway Colony, Ram Ganj Ajmer and presently working as Officer Superintendent, Office of Divisional Material Manager, Diesel Shed, Railway Station Abu Road, North Western Railway, Ajmer Division, Ajmer.

.....Applicant

(By Advocate Mr. C.B. Sharma)

**VERSUS**

1. Union of India, through General Manager, North Western Zone, North Western Railway (Head Quarter), Near Jawahar Circle, Jagatpura, Jaipur- 302017
2. Controller of Stores, North Western Zone, North Western Railway (Head Quarter), Near Jawahar Circle, Jagatpura, Jaipur- 302017
3. Deputy Chief Material Manager, North Western Railway, Ajmer Division, Ajmer.
4. Assistant Personnel Officer, Store Branch, North Western Railway, Ajmer Division, Ajmer.

.....Respondents

(By Advocate Mr. Anupam Agarwal)

**ORDER**

This OA has been filed u/s 19 of the Administrative Tribunals Act, 1985 praying for the following relief :

*"The respondents may be directed not to post any other official at Ajmer as Office Superintendent without considering the request of the applicant or*

*One vacant post to the cadre of Office Superintendent pay band Rs. 9300-34800 with Grade Pay Rs. 4200 be kept vacant in the interest of justice.*

2. When the case came up for consideration and hearing on 29.01.2016, learned counsel for the applicant, inter alia, submitted that he has challenged the order dated 18.09.2014 (Annexure A/1) issued by the Headquarter Office, Jaipur of North Western Railway by which the request of the applicant for transfer has been denied on the ground of being No. 05 in the seniority list of transfer. In this context counsel for the applicant submitted that the applicant who was working as UDC at Ajmer submitted an application dated 25.03.2014 (Annexure A/4) requesting to be posted at Ajmer itself in the event of his promotion as Office Superintendent in view of his wife working in the State Government at Ajmer and others family matters. However, the request was not considered and vide order dated 26.04.2014 (Annexure A/6) he was promoted and posted as Office Superintendent at Diesel Bhandar Abu Road even though a post was vacant at Ajmer at that time. After joining at Abu Road, the applicant submitted another application dated 28.07.2014 (Annexure A/9) for posting at Ajmer in view of his wife being in the State government with reference to Circular of Railway Board No. 23/2010 dated 02.02.2010. However, ignoring the request of the applicant, the posts of Office Superintendent at Ajmer were filled up as may be seen from order dated 26.03.2014 (Annexure A/5) when Shri Anil Malu was posted at Ajmer, and vide order dated 30.04.2014 (Annexure A/7), when Shri Bhanwar Mali was posted from Phulera to Ajmer.


3. Counsel for the applicant further submitted that Railways has a procedure of name noting for requesting of transfer and Annexure A/1 dated 18.09.2014 has been issued simply keeping in view the position and seniority of the applicant with reference to name noting and as from the communication dated 22.07.2014 (Annexure A/8). However counsel for applicant strongly contended that by simply referring to the seniority in name noting, the respondents have ignored the directions contained in Circular No.RBE 23/2010 dated 02.02.2010 (Annexure A/15) in which Para No. 06 specifically provides that a separate register be maintained for those who have requested for transfer on the basis of spouse being in employment, but the respondents have not followed the same and the name of the applicant was not even entered in a separate register as required. Counsel for applicant further submitted that even the powers to give priority and break the seniority to those who seek transfer on spouse grounds has been given to the DRM vide letter dated 12.08.2014 (Annexure A/11). Thus in view of the above provisions Annexure A/15 and A/11, separate register is required to be maintained for requests for transfer on spouse grounds and even the DRM has been authorized to give priority to the same but the respondents have not considered these aspects of the policy and simply rejected request of the applicant only on the ground of seniority in name noting. He also referred to the case of Shri Hansraj Jarwal, Staff Nurse who has been adjusted at Ajmer on spouse ground vide order dated 02.09.2014 (Annexure A/13) but the applicant has

been denied his due. In view of the same Annexure A/1 dated 18.09.2014 requires to be set aside and the request of the applicant of transfer from Abu Road to Ajmer is to be considered at serial no. 01 priority in view of the clear policy of the Railway Board regarding spouse grounds. Counsel for applicant thus prayed for the OA being allowed.

4. Per Contra learned counsel for the Respondents submitted that the applicant's case on the ground of spouse, working in the State Government, at Ajmer cannot be considered in derogation of the policy of name noting. In this context he submitted that the policy of name noting for transfer as appended at R/1 dated 08.08.2007 makes it clear that this is a continuing list and is maintained as per seniority of request. He further submitted that there is no doubt that Railway Circular RBE 23/2010 dated 02.02.2010 provides for transfer on the basis of spouse working in State Government, but in this context he also drew attention to point (ब) which lays down the method to be adopted where one person out of husband/wife is a Railway employee and other in the State Government services and where it is specifically mentioned that if it is not possible to accommodate the railway employee at the place of spouse posting then request may be made to the controlling officer of the spouse for sympathetic consideration. However, in this case the matter was already referred to the Headquarter, Jaipur and the Headquarter office after due consideration did not accept the request of the

applicant. Counsel for respondent also submitted that in the Ajmer Division, the request of transfer of others employees on the basis of spouse ground by ignoring name noting policy has been rejected earlier also.

5. Counsel for respondent also clarified that as per letter dated 12.08.2014 (Annexure A/11) the powers to give priority by breaking the seniority serial has been given to the DRM only in case of inter-division transfer but the present request of the applicant is for transfer within the Division and the same has been duly considered by the Headquarter. He also clarified that the transfer of Shr Hansraj Jarwal is inter-divisional from Bikaner to Ajmer Division as is clear from letter dated 02.09.2014 (Annexure A/13) and has been done on the principle of the bottom seniority. Thus, the case of Shri Hansraj Jarwal is not comparable with that of the applicant. He argued that thus there is no ground to quash letter dated 18.09.2014 Annexure A/1 and note dated 15.09.2014 Annexure A/2 and harmonious reading of letter dated 12.08.2014 (Annexure R/11) and RBE Circular 23/2010 dated 02.02.2010 (Annexure R/15) indicates that there is no justification to break the seniority of request transfers as maintained in the name noting policy on spouse ground for within Division transfers. Accordingly counsel for respondents prayed for the dismissal of the OA.



6. Considered the aforesaid contentions and perused the record, it is noted that the applicant was transferred to Abu Road on promotion as Office Superintendent as evident for Annexure A/6 dated 26.04.2014. Thereafter, after joining at Abu Road the applicant made further request for being transferred to Ajmer vide application dated 28.07.2014 (Annexure A/9) on the spouse ground but the same was not accepted by the Headquarter Office vide Annexure A/1 dated 18.09.2014 in view of the applicant being number 05 in the seniority list of request for transfer. This is the seniority of the applicant in name noting as evident from Annexure A/8 dated 22.07.2014. The main contention of counsel for the applicant has been that Railway Board Circular RBE 23/2010 dated 02.02.2010 (Annexure A/15) provides for consideration of posting at same place on the ground of spouse, and para 6 also specifically provides maintenance of a separate register. In view of this provision the seniority in name noting does not require to be considered in such cases. However, it is seen that as argued by the counsel for the respondent that Railway Circular dated 02.02.2010 in para (घ), which relates to the spouse working in State Government, provides that efforts should be made to post the railway employee where the spouse is posted and if this is not feasible, then matter may be forwarded to the Controlling Authority of the spouse for sympathetic consideration. There is also force in the arguments of the counsel for the respondents that Circular dated 08.08.2007 (Annexure R/1) is not superseded by the RBE Circular dated 02.02.2010

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(Annexure R/15) and the name noting procedure and policy by which many employees are waiting for transfer for a considerable length of time, cannot simply be ignored. It is also apparent that the powers given to the DRM as per Annexure A/11 dated 12.08.2014 to break the seniority on spouse ground are only with regard to inter-divisional transfers. The present case of the applicant is not a case of inter-division transfer, but his request is for within division transfer. It is further seen that the transfer of Shri Hansraj is inter-divisional from Bikaner to Ajmer and he has been given bottom seniority and two cases are not at all comparable. It is also noted that the transfer of Shri Anil Malu who was already working as Office Superintendent was made from Phulera to Ajmer on 26.03.2014 (Annexure A/5) and the applicant was promoted as Office Superintendent later on 26.04.2014, and Shri Bhanwar Lal Mali who was also working as Office Superintendent was transferred to Ajmer on 30.04.2014 (Annexure A/7). Thus when the applicant made a representation, after joining on promotion at Abu Road, on 28.07.2014, (Annexure A/9), Shri Anil Malu was already posted at Ajmer prior to the applicant's promotion and Shri Bhanwar Lal Mali, already working as Office Superintendent, was posted at Ajmer on 30.04.2014 (Annexure A/7) i.e. prior to the date of the applicant's representation. Thus these references do not show any discrimination against the applicant, more so when he was posted at Abu Road on promotion as Office Superintendent.



7. Further harmonious reading of Annexure R/1 dated 08.08.2007, i.e. the name noting procedure and RBE Circular dated 02.02.2010 (Annexure A/15) and instructions dated 12.08.2014 (Annexure A/11) clearly indicates that name noting seniority can be given a break in case of inter - division transfer on spouse grounds at the level of DRM, but this does not automatically apply to within division transfers and there appears no justification for breaking the name noting seniority on spouse ground in cases of within division transfer. In view of the aforesaid analysis there are no grounds to set aside Annexure A/1 dated 18.09.2014 and Note Annexure A/2.

8. Accordingly the OA is dismissed with no order as to costs.



(MS.MEENAKSHI HOOJA)  
Administrative Member

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