

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

ORIGINAL APPLICATION NO.291/00325/2015

Order Reserved on: 28.01.2016

Date of Order: 02.02.2016

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Ganga Ram Meena S/o Shri Meetha Lal Meena, aged about 48 years, resident of C/o Brij Mohan Gupta, Near Agarwal Sewa Sadan, New Mandi Road, Dausa and presently working as Senior Section Engineer (P.Way), Under Deputy Chief Engineer (Construction), North Western Railways, Dausa.

.....Applicant

(By Advocate Mr. C.B. Sharma)

VERSUS

1. Union of India, through General Manager, North Western Zone, North Western Railway, Headquartered office, Near Jawahar Circle, Jagatpura, Jaipur.
2. Chief Administrative Officer (Construction), North Western Zone, North Western Railway, Headquartered office, Near Jawahar Circle, Jagatpura, Jaipur.
3. Chief Engineer (Construction), H.Q. North Western Zone, North Western Railway, Headquartered office, Near Jawahar Circle, Jagatpura, Jaipur.
4. Deputy Chief Engineer(Construction), North Western Railway, Near Railway Station, Dausa.

.....Respondents

(By Advocate Mr. Anupam Agarwal)

ORDER

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

8. (i) That the respondents may be directed to allow the applicant to work at Dausa by quashing relieving order dated 30.5.2014 (Ann.A/1) with the order dated 6.12.2013 (Ann.A/17) with all consequential benefits.

(ii) That the respondents be further directed to give similar treatment in connection with transfer/posting as allowed to his coworkers like Shri Shankar Lal Meena, S.C. Gupta and Brij Kishore Meena and to allow the applicant to work at Dausa in

construction and also to follow instructions for posting/transfer in the cases of SC/ST categories employees with all consequential benefits.

(iii) That the respondents be further directed to release pay and allowances of the applicant w.e.f. 1.6.2014 treating him as on duty, as applicant till date not relieved as per procedure by handing over charge and reporting duties day to day before the respondent No.4.

(iv) That the respondents be further directed to make payment of benefits like bonus and MACP granted by them along with interest at market rate.

(v) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

(vi) That the costs of this application may be awarded.

2. When the matter came up for hearing on 28.01.2016 Ld. Counsel for the applicant referred to Ann.A/3 relating to prescription for serious illness of his wife and thereafter to Ann.A/4 order dated 03.10.2011 by which he was posted at Dausa as JE/C/P.Way/DO. Thereafter within 8 months the applicant was transferred vide order dated 22.06.2012 Ann.A/6 from Dausa to Sirohi. The applicant made a representation against the same and vide Ann.A/11 Memo dated 24.01.2013 the transfer orders were detained upto 31.03.2014 and the applicant was advised to retain the post at JE/P.Way/C/DO till further orders. Counsel for applicant further submitted that vide Ann.A/13 dated 06.04.2013 the applicant was declared as surplus in the Unit, and thereafter vide order dated 06.12.2013 (Ann.A/17) he was transferred to Jodhpur Division but vide order dated 03/06-01-2014 (Ann.A/20) order dated 06.12.2013 Ann.A/17 was partly modified and the applicant was retained at Dausa as JE/P.Way upto 31.03.2014. Counsel for the applicant also brought to notice the order dated 15.01.2014 (Ann.A/21) by which the applicant was promoted as Senior Section Engineer w.e.f. 01.11.2003. Thereafter, suddenly the applicant was relieved vide order dated 30.5.2014 Ann.A/1 and no time was given to him to hand over the charge though the same is

mandatory as per instructions of the Department in Ann.A/10 dated 28.08.2012. Counsel for applicant contended that there is a discrimination as one Shri Shankar Lal Meena who was also transferred vide same order dated 06.12.2013 (Ann.A/17) along with the applicant but he has been adjusted at Ajmer but nothing has been done in the case of the applicant.

3. Counsel for applicant also referred to the circular RBE 336/85(Ann.A/26) which is regarding transfer of persons of SC/ST category and inter-alia provides that:-

9.5. The employees belonging to Scheduled Castes and Scheduled Tribes should be transferred very rarely and for very strong reasons only. Posting of employees belonging to these communities on their initial appointment/promotions/transfers should be as far as practicable be confined to their native district or adjoining districts or places where the Railway Administration can provide the quarters subject to their eligibility.

On the basis of the said circular and all other grounds mentioned earlier he contended that transfer order of applicant dated 6.12.2013 (Ann.A/17) and relieving order dated 30.05.2014 (Ann. A/1) deserves to be quashed and OA be allowed.

4. Per contra, the Ld. counsel for respondents contended that the order dated 06.12.2013 (Ann.A/17) is not simply a transfer order but an order repatriating the applicant to his parent Division i.e. Jodhpur Division. He referred to the reply wherein in Para No.1 it has clearly been brought out that the applicant was working in the Construction Division which is manned by staff purely on adhoc basis while their lien remains with open line Organisation. Their services are utilized as per the scope of work and availability of funds and staff. They are transferred from one project to another as per the requirement. Since sufficient funds were not available in Dausa hence staff was transferred to other projects. The applicant despite orders issued by

the competent authority disobeyed the orders and failed to resume his duties. He failed to hand over the charge on relieving from the office. Hence the same were handed over through joint verification. The applicant was retained upto 31.3.2014 at Dausa and as there was no scope of P. Way work at Dausa, first the applicant was declared surplus vide order dated 06.04.2013 (Ann.A/13) and the transfer orders dated 06.12.2013 (Ann.A/17) were issued repatriating him to his parent Division and as he was retained upto 30.03.2014 vide order dated 03/06.01.2014 (Ann. A/20) and relieving orders dated 30.05.2014(Ann.A/1) were issued thereafter, Counsel for respondents submitted that the applicant has not challenged the order dated 06.04.2013 (Ann. A/13) declaring him as surplus. The applicant had no right to continue at Dausa beyond 31st March, 2014 in view of the order dated 03/06.01.2014 (Ann.A/20).

5. Counsel for respondents further contended that as far as handing over of the charge is concerned, as brought out in the reply that at the time of transfer of applicant from Dausa to Sirohi the applicant failed to hand over the charge in official document and a Committee was nominated for joint verification of the stock available with the applicant. He also referred to the fact that earlier also when the applicant was working at Bikaner, he handed over the charge of Bikaner after 3 years. The counsel for respondents further submitted that at the time of relieving, the applicant was not looking after the store work and thus there was no question of handing over the stock. Thus he submitted that there is no force in the contention of counsel for applicant that the applicant was relieved without being asked to hand over the charge and the relieving order cannot be said to be illegal and invalid on that ground. Counsel for respondents also contended that the circular regarding transfer of SC/ST employees

does not apply in this case because as clear from the order itself (order dated 06.12.2013- Ann.A/17) as brought out in detail in the reply, that this is a case of repatriation to the parent department on account of closing of work at Dausa and not a simple transfer. He further contended that when the applicant was transferred to his parent Division Jodhpur he made a representation and he was allowed to continue upto 31.03.2014 vide order dated 03/06.01.2014 (Ann.A/20) but on being relieved he did not report for duty at Jodhpur and such a behavior and non compliance of orders cannot merit sympathetic consideration. Regarding adjustment of Shri Shankar Lal Meena, counsel for respondents submitted that Shri Shankar Lal Meena requested for being adjusted and on his request he was adjusted at Ajmer but the applicant failed to make any such request for adjustment. Counsel for respondents concluded by saying that there are no grounds to grant the relief sought for by the applicant and prayed for dismissal of the OA.

6: Considered the aforesaid contentions and perused the record. It appears that after being declared surplus vide order dated 06.04.2013, Ann. A/13, the applicant was transferred to his parent Division at Jodhpur vide order dated 06.12.2013 (Ann.A/17). On his representation, he was retained upto 31.03.2014 vide order dated 03/06.01.2014, (Annexure A/20). Subsequently, he was relieved vide order dated 30.05.2014, Ann.A/1. One of the main contentions of the counsel for the applicant is that the applicant was relieved without being allowed to hand over the charge which is the violation of the policy of transfer and posting. However, it is seen that as far as handing over of the charge is concerned, as brought out by the counsel for respondents, that when the applicant was transferred earlier to Sirohi, the Committee had taken over the charge of certain

documents and as brought out in the reply, the applicant was not looking after store work and there was no question of having any stock with him. Therefore, the argument of the counsel for applicant that he was not allowed to hand over the charge before relieving does not carry much conviction. As far as the application of circular RBE 36/1985 pertaining to transfer of SC/ST employees (Ann.A/26) is concerned, it is noted that order dated 06.12.2013 Ann.A/17 is actually transfer on repatriation to the parent Division at Jodhpur and as the construction work at Dausa has come to close, the applicant was declared surplus (vide order dated 06.04.2013 (Ann.A/13) and the same has not been challenged) and he has only been transferred back to his parent Division, no case of violation of the circular is made out. It is also seen that there appears to be no discrimination against the applicant, as in the case of Shri Shankar Lal Meena, as brought out by the respondents, the latter applied for being adjusted and was accordingly accommodated in Ajmer. However, there is nothing on record to indicate that the applicant made a similar request for adjustment in any other suitable place and further he also did not report for duty at Jodhpur, his parent Division even after being relieved vide order dated 30.05.2014 (Ann.A/1). The transfer (Ann.A/17) and relieving order (Ann.A/1) thus cannot said to be discriminatory or illegal and there is no justifiable ground to set them aside.

7. In view of the above position and analysis, there appear no grounds to grant any relief as prayed for by the applicant and accordingly the OA is dismissed with no order as to costs.



(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER