

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 06.3.97

OA 54/97

Mangu Singh, Waiter, Catering Department, Divisional Railway Manager Office, Western Railways, Jaipur.

... Applicant

## Versus

1. Union of India through the General Manager (Estt.), Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager (Commercial), Jaipur.
3. The Chief Catering Service Manager, Chief Catering Services, Headquarter Office, Churchgate, Mumbai.

... Respondents

**CORAM:**

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.O.P.SHAFMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.P.V.Calla

### For the Respondents

... Mr.U.D.Sharma

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PER HON'BLE MF. GOPAL KRISHNA, VICE-CHAIRMAN

Applicant, Mangu Singh, in this application u/s 19 of the Administrative Tribunals Act, 1985, has challenged the orders dated 16.10.95, at Ann.A-3, by which he was transferred to the Catering Unit of the Mumbai Central, and dated 28.5.96, by which the Jaipur Division of the Western Railway passed the consequential order transferring the applicant to Mumbai.

2. The applicant's case is that he was appointed as a Waiter in the Jaipur Division of the Western Railway in the pay scale of Rs.775-1005. The seniority of Waiters is being maintained division-wise and the applicant having been appointed in the Jaipur Division, is not liable to be transferred to any other division in the normal course. It is also stated that due to administrative reasons and or exigencies of service, as per the extant rules, transfers can be made but the same cannot be made as a matter of routine and if any work is available, no transfer to any other division should be made. While the applicant was working as a Waiter, respondent No.2, vide order dated 28.5.96, transferred him from the Jaipur Unit to the Mumbai Central Unit pursuant to an order dated 16.10.95, issued from the office of the General Manager (Estt.), Western Railway, Mumbai. The applicant then presented an application before the Tribunal. The contention of the applicant is that non-consideration of his name for transfer back to the Jaipur Catering Unit and retaining juniors to the applicant in the same Unit is violative of Article 14 of the Constitution. It

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is also stated that there was no ground for transferring the applicant from Jaipur to Mumbai simply for the reason that work was not available or there was paucity of work.

3. On the contrary, the respondents have stated that the applicant, while working as a Waiter in the Catering Unit at Jaipur, had been transferred alongwith other Waiters and Cleaners to the Catering Unit, Mumbai Central, consequent upon the reduction of the staff in the Jaipur Division, vide order dated 16.10.95 issued by the Headquarters Office, Mumbai. It is also stated that the present application has been filed by the applicant in regard to the same subject matter involving the same controversy and, therefore, it is barred by the principle of res-judicata. It is also stated by the respondents that by the impugned order dated 16.10.95 other Waiters had also been transferred to the Catering Unit at Mumbai Central and in case persons had got their names noted for transfer to Jaipur, they could be considered subject to the availability of vacancies. It is also stated that the applicant cannot be accommodated against the existing vacancies in the Jaipur Unit.

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

5. The applicant had earlier filed an OA (No.344/96), decided on 26.7.96, wherein he had prayed for quashing the orders dated 16.10.95 and 28.5.96 and had further prayed to continue him in the Jaipur Unit as a Waiter as also for his adjustment on any post of Coach Attendant, Holiday Room Peon, Running Room Waiter etc. carrying an identical scale of pay Rs.775-1025. The applicant had also stated in the earlier OA that six persons junior to him having been retained at Jaipur Unit, the transfer orders are vitiated by this very fact since the same were passed to accommodate persons junior to him. The issues involved in the present OA are the same as were raised in the earlier OA. The subject matter in both the Original Applications are the same. Another noteworthy feature of the matter is that the transfer orders assailed in the present OA were not interfered with by the Tribunal in the earlier OA and, in such circumstances, we are of the view that the present OA is not maintainable as being barred by the principle of res-judicata. It is, therefore, dismissed at the stage of admission. No order as to costs.

(O.P.SHARMA)

ADMINISTRATIVE MEMBER

G.K.N.R.  
(GOPAL KRISHNA)

VICE CHAIRMAN

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