

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 22.11.2001

OA No.565/1999

Harish Kumar Yadav s/o Shri K.L.Yadav r/o B-55, Jamuna Nagar, Sodala, Jaipur (Ex- Assistant Station Master), presently posted as Junior Accountant, Mining Department, Udaipur.

..Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur

.. Respondents

Mr.Kunal Rawat, counsel for the applicant

Mr. B.K.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

ORDER

Per Hon'ble Mr. A.P.Nagrath, Administrative Member

After having been selected for the post of Assistant Station Master (ASM, for short), the applicant was sent for training for a period of 5½ months including one month of practical training. Before joining the training, the applicant had executed a bond for serving the Department for a period of five years. After completion of training, he was appointed as ASM in the Rajkot Division on 17.3.1991. He applied for the post of Junior Accountant against a Notification issued by the Rajasthan Public Service Commission, through proper



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channel, and he got selected for the said post. The Department also issued to him a No-Objection Certificate, in the event he is appointed on the post of Accountant/Junior Accountant, but this was subject to fulfilment of the conditions of the bond executed by the applicant at the time of his appointment in the respondents' Department. On being offered an appointment in the Mining Department under the Government of Rajasthan, the applicant has submitted his resignation on the post of ASM on 20.4.1995 with a request that the same may be accepted by 30.5.1995 as he was required to join his new service by 31.5.1995. The respondents vide letter dated 29.5.1995 directed the applicant to deposit the cost of training i.e. a sum of Rs. 10,968/- to comply with the conditions for acceptance of his resignation. He deposited the said amount and his resignation was accepted vide order dated 30.5.1995. The applicant has come before us with the plea that the respondents' action of asking him to deposit the amount towards the cost of training is illegal and is against the provisions of Para 1410 of Chapter IV, Part 'A' of the Indian Railway Establishment Manual (IREM). He has stated that he had represented against the said deposit on 30th January, 1995, but the respondents have not given any heed to his request. The applicant has also referred to the Railway Board's circular No. E(NG)1/89/AP/5 dated 30th January, 1995 to contend that the Railway Board have decided that in the case of non-gazetted railway employees who have received 'induction training' and who have left the railway service with proper permission of the competent authority to join employment under the Central Government/State



Government/Public Enterprise wholly or partly owned by the Central Government or a State Government or autonomous body, are exempted from refund the cost of training. In such cases, a fresh bond is taken from such employees to ensure that they serve the new employer for the balance of the original bond period. Prayer of the applicant is that the respondents be directed to refund the amount of Rs. 10,968/- which he had to deposit while resigning from the post of ASM. His further prayer is that the respondents be directed to send the service record of the applicant to the Director, Treasury and Accounts, Government of Rajasthan, Jaipur so that he can avail of the benefit of the service rendered in the respondent Department.

2. We have heard the learned counsel for the parties and also perused the rule position and written reply of the respondent alongwith the averments made by the applicant.

3. The whole controversy revolves around the fact whether under provisions of Para 1410 of IREM and Railway Board's letter dated 30th January, 1995, the applicant was required to refund the cost of training before his resignation was accepted. A reading of para 1410 and the circular of the Railway Board makes it clear that in case a non-gazetted railway employee has been given training in the induction course, he is not required to refund the cost of training, in case he is released to join service under the Central Government, State Government or Public Sector Undertaking provided he had taken prior permission of the Department to apply for the said job. The learned

counsel for the applicant vehemently argued that the training given to the applicant was only an induction course and thus he was not required to refund the cost of training. The learned counsel for the respondents, on the other hand, submitted that the category of ASM is a safety category post directly connected with the railway operations, which the ASM handle independently. This can be done only after he is given specialised training in the railway operating procedures and also the safety rules. Thus, the learned counsel contended that it was not a mere induction course but a training to equip the applicant and others like him to handle the specific duties of ASM and this requirement is typical for the railway department.

4. We have considered the rival contentions carefully and we are convinced that the training of 5½ months given to the applicant by no means can be considered only as an induction course. The ASM has a very specific function of receiving and despatching the trains and handling various other operating and commercial functions at the railway station. To enable him to handle these responsibilities, he is given specialised training in railway operating procedures and all related needs of safety including signalling and track and in some cases, like in some electrical sections some functions relating to Traction distribution. For all these requirements an ASM is given specialised training including practical training. The department is only incurring costs during this period and not getting any service in return for that period. This is all done with the expectation that after such specialised training the employee will render service to the Department, which has incurred expenditure to

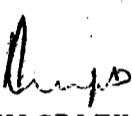
impart such required skills, at least for a reasonable length of time. In the instant case, the period has been prescribed as five years. The applicant had decided to resign from the service, obviously, seeking better avenues elsewhere. While trying to avail better career opportunities, he cannot make a grievance about the cost which is required to be refunded to the Department which trained him for the specialised job for its own requirements. We are convinced that the action of the Department of recovering the cost of training from the applicant is in order and within the provisions of rules.

^{Was} The applicant, very much aware of these conditions when he joined the Department for training after executing the necessary bond and he cannot now go back on the promise he made to the respondent department while accepting the offer of appointment. We do not see any merit in his prayer insofar as it relates to the refund of Rs.10,968/-.

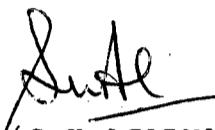
5. Regarding sending his service record to his new employer, we are surprised at the response of the respondents when they say that they have no obligation to send service record to the State Government. They have also, unfortunately, taken a plea that this relief is time barred. We are, to say the least intrigued by this attitude. It does not require much of an effort to send service record to the new employer as this can yield some benefit to the applicant in counting the length of qualifying service which may be important for him for determining his pensionary benefits or some other benefits depended on the length of qualifying service.

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6. In the light of discussions in the preceding paragraphs, we dismiss the relief in respect of refund of Rs. 10,968/- as the same has been recovered correctly and as per rules. However, we direct the respondents to send the service record of the applicant to the Director, Treasury and Accounts, Government of Rajasthan, Jaipur within a period of one month from the date of receipt of this order. No order as to costs.


(A.P. HAGRATH)

Adm. Member


(S.K. AGARWAL)

Judl. Member