

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH
JAIPUR

.....
Date of Order : 02.05.2001.

C.A.NO. 227 of 2000.

(1). Sanjeev Kumar Jain S/o Shri Bheek Singh Meena, aged 36 years, presently working in CCG, Western Railway, Mumbai, as Sr. CMI, against the post of Jaipur Division, Permanent resident of C/o Shri Om Prakash Meena, Sr. CMI, Railway Station, Quarter L&M 82/C, Railway Quarters, Sikar (Raj).

2. Om Prakash Meena S/o Shri Bheek Singh Meena, aged 42 years, working as Sr. CMI, Resident of Quarter No. L&M 82/C, Railway Quarters, Sikar (Raj).

.....Applicants.

VERSUS

1. The Union of India through its General Manager, Western Railway, Church Gate, Mumbai.

2. The Divisional Railway Manager (DRM), Western Railway, Jaipur Division, DRM Office, Jaipur.

.....Respondents.

Mr. Sunil Samadaria, counsel for the applicants.

Mr. S.S. Hasan, Counsel for the respondents.

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CORAM :

HON'BLE MR. A.K. MISRA, JUDICIAL MEMBER

HON'BLE MR. S.K. AGRAWAL, ADMINISTRATIVE MEMBER

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O R D E R

(Per Honourable Mr.A.K.Misra)

The applicants had filed this O.A. with the prayer that the Condition No. 6 of the Circular dated 28.1.2000 be declared null and void being arbitrary and violative of the Article 14 of the Constitution and direct the respondents to consider the name of the applicants for promotion to the post of D.C.M.-I when the vacancies arises in the Jaipur Division, ignoring the condition No. 6 of the said circular and condition No. 2 of the agreement.

2. Notice of the application was given to the respondents who have filed their reply to which no rejoinder was filed.

3. It is stated by the learned counsel for the applicants that the letter Annex.A/3 dated 28.1.2000 and enclosed letter of the said date, was issued in pursuance of the Minutes dated 5.1.2000 (Annex.A/2) of the joint meeting of two unions and the Railway administration. In Annex.A/2 one of the conditions of agreement was "the pending requests of employees for transfer on the date of decentralisation may be considered first as soon as vacancy arises in that division. List of name noted persons may be notified to divisions". The Condition No. 6 of the letter dated 28.1.2000 reads as "certain employees have also got their names noted for transfer to divisions of their choice (list enclosed). Such request will stand good for the purpose of transfer, even after decentralisation of these posts. Such request will be considered by the respective divisions as and when the vacancy will arise on that division." In this connection, he has argued that by attaching these two

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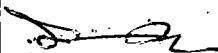
conditions the management has shown that the cases of the candidates of requests transfer would be considered first in comparison to the candidates already working in that division and thereby such transferred persons would adversely affect the candidates figuring in the cadre of Senior C.M.Is. It is also stated by the learned counsel for the applicants that the names of these two applicants are figuring at No. 16 and 17 of the gradation list, Annex.A/1. But, their chances of promotion will be affected by the request transferred candidates inspite of de-centralisation scheme. On the other hand, it is submitted by the learned counsel for the respondents that the grievance of the applicants is imaginary and the O.A. is premature.

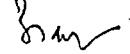
4. After considering the rival contentions, we are of the opinion that the present O.A. is premature and grievance of the applicants is imaginary. It should be noted that condition No. 8 of the accompanying letter of Annex.A/3 envisages that on de-centralisation the divisions should notify upto date seniority list which would determine the eligibility of the staff for their promotion henceforth on the division. This means that after carrying-out the request transfer the concerned division would issue upto-date seniority list which in the instant case has not yet been done. Therefore, the contention of the applicants that such request transfers would affect the seniority of other candidates of that division, is only hypothetical. The grievance of the applicants would arise only if a fresh seniority list in pursuance of the said resolution is issued by the concerned division, and in which the applicants lose their seniority and not otherwise. Therefore, the claim of the applicants is premature and the grievance is ill-founded.

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The Original Application, therefore, deserves to be dismissed.

5. The Original Application is, therefore, dismissed as premature. The applicants would be free to challenge the fresh seniority list as and when the same is issued by the respondents in pursuance of condition No. 8 of the letter dated 28.1.2000 annexed to Annex.A/3, issued by the Headquarters, Western Railway, Church Gate, Mumbai. The parties are, however, left to bear their own cost.


(S.K.Agrawal)
Adm.Member


(A.K.Misra)
Judl.Member

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