

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH. JAIPUR

OA 16/2000 with MA 6/2000

30/3/2001

V.K. Bansal son of Late Shri A.K. Bansal aged 35 years resident of 1374/32, 'Naveen Kunj', Alwar Gate, Ajmer presently working as Head Draftsman in Chief Workshop Manager, Ajmer.

.... Applicant.

VERSUS

1. The Union of India through its General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager (DRM), Western Railway, Ajmer Division, Ajmer.

.... Respondents.

Mr. Sunil Samdaria, Counsel for the applicant.

Mr. Hemant Gupta, Proxy counsel for

Mr. M. Rafiq, Counsel for respondents no. 1 & 2.

Mr. J.K. Kaushik, Counsel for respondent no. 3.

CORAM

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

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

ORDER

PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

The applicant has come before us with a prayer that the respondents may be directed to consider his case for transfer to Drawing Office DRM (E) from the date on which he was unlawfully refused the transfer despite existence of a direct recruitment quota vacancy. He has further sought direction to the respondents to consider his case against 20% quota of direct recruitment in the grade of Rs. 6500-10500 in respective Department.

...2/-

2. The applicant is a graduate Engineer in Civil Engineering and came to be appointed as Sr. Draftsman on 24.11.88. He is presently posted as Head Draftsman in Mechanical Department under Chief Workshop Manager, Ajmer. His plea is that he is a Civil Engineer and he is working in Mechanical Engineering Department which was prejudicial to a Civil Engineer and his further advancement in Mechanical Department will be adversely affected. He has submitted that he requested the respondents to transfer him to Civil Engineering Department against direct recruitment quota in pay scale of Rs. 5500-9000 but his request was turned down by letter dated 21.7.98. It has been further stated that transfer from one division to another division and from one cadre to another cadre is permissible under the rules of Indian Railway Establishment Manual (IREM) Para 312. He has further stated that Railway Board vide circular dated 28.9.98 have discontinued 25% direct recruitment in the category of Draftsman but have provided filling up of 20% of the post in next higher grade of Rs. 6500-10500 from amongst serving Engineer graduates in the grade of Rs. 5500-9000 through the process of Limited Departmental Competitive Examination (LDCE). He states that in case he is not transferred, his prospects against this quota of 20% will be adversely affected as he is a Civil Engineering Graduate, working in Mechanical Department and will have no avenue against that quota.

3. The respondents in their written reply have stated that the applicant has accepted the offer of appointment as Sr. Draftsman in the Mechanical Department. It is stated that by rejecting the request of transfer, no prejudice is caused to the applicant as respondents contend that it is not mandatory that every request for transfer has to be accepted and in any case provisions of Para 312 of IREM are not applicable in the case of the applicant as his request involves change of category. In view of Railway Board's circular dated 28.9.98, direct recruitment quota in the draftsman category scale Rs. 5500-9000 has been abolished and thus it is stated that since there is no direct recruitment quota, there is no question of accepting the request of the applicant for absorption in Civil Engineering Department. The respondents have denied that the applicant is being deprived of his rights for being considered against 20% quota in scale Rs. 6500-10500 meant for in service Engineers. In view of these submissions and that there is no

direct recruitment quota in scale Rs. 5500-9000, respondents contend that the applicant has no case whatsoever.

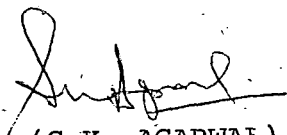
4. We have heard the learned counsel on either side. From the facts of the case and arguments advanced before us we are clear that it is a case of change of category from Head Draftsman (Mechanical Engineer) to Head Draftsman (Civil Engineer) and not a case of transfer. Under the provisions of rules, the change of category can only be against the direct recruitment quota and in case request of the applicant is accepted, the applicant is placed at the bottom of the existing seniority list of the Civil Engineer. The learned counsel for the applicant's plea that the applicant was willing to be placed at the bottom of seniority list of scale Rs. 5500-9000 in the Civil Engineering Department is of no consequence as in view of the fact that after issue of Railway Board's circular dated 28.9.98, the direct recruitment quota has been abolished and there is thus no scope for any request for change of category in this grade for being considered.

5. Regarding other plea of the applicant that he is deprived of the consideration against 20% for selection to grade Rs. 6500-10500 has no basis as no such document have been produced by the learned counsel for the applicant in support of his contention. The respondents have also denied of depriving the applicant of any such opportunity. In any case, acceptance of any request of transfer or change of category is purely an administrative decision and in case of non-acceptance of such a request, it cannot be considered as subversive of any right unless any other similarly situated persons or any juniors to the affected party has been given different treatment. We do not find any merit in this application which deserves to be dismissed.

6. We, therefore, dismiss this OA with no order as to costs.

7. In view of this order in this OA, MA 6/2000 also becomes infructuous and is disposed of accordingly.

  
(A.P. NAGRATH)  
MEMBER (A)

  
(S.K. AGARWAL)  
MEMBER (J)