

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 12-9-2001

OA 407/2001

R.K.Kashyap, O.S.Grade-I in the Estt.Branch, DRM Office, Western Railway, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Rly. Manager, Western Railway, Jaipur.
3. Sr.Divisional Personnel Officer, Western Railway, Jaipur.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.S.A.T.RIZVI, ADMINISTRATIVE MEMBER

For the -Applicant ... Mr.Virendra Lodha

For the Respondents ...

O R D E R

PER HON'BLE MR.S.A.T.RIZVI, ADMINISTRATIVE MEMBER

Office Order dated 28.8.2001 (Ann.A/6), passed by the respondent authority, by which the applicant in this OA has been promoted to the post of Office Superintendent Grade-I in the pay scale of Rs.6500-10500 on regular basis, has been held in abeyance by the respondent authorities' order dated 3.9.2001 (Ann.A/1). Aggrieved by the same, the applicant has filed this OA.

2. The learned counsel, appearing in support of the OA, has submitted that the aforesaid order dated 28.8.2001 has been passed by the respondent authority in compliance of the order dated 17.8.2001, passed by this Tribunal (Jaipur

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Bench) in OA 319/2001 (Ann.A/5). The applicant has consequently been promoted to the post of Office Superintendent Grade-I. Thus, according to him, after making efforts at several levels, the applicant has at long last succeeded in getting his due by way of promotion to the post of Office Superintendent Grade-I. By the impugned order dated 3.9.2001, the respondents wish to take away the right, which has accrued to the applicant by the aforesaid order of 28.8.2001, and for this there is absolutely no justification available on record or otherwise. The prayer made in the OA is that the impugned order dated 3.9.2001 (Ann.A/1) be quashed and set aside and the respondents directed to implement the aforesaid order dated 28.8.2001 by restoring the same. Since the aforesaid order dated 28.8.2001 has been passed in compliance of this Tribunal's order dated 17.8.2001, the further prayer made is that the respondents be directed to comply with the aforesaid order of this Tribunal. By way of interim relief, the applicant prays for an order staying the operation of the impugned order dated 3.9.2001.

3. We have considered the matter in the light of the submissions made by the learned counsel. The learned counsel has pressed for the grant of interim relief. On consideration we find that by way of interim relief, the applicant really wants to seek the final relief inasmuch as the applicant seeks quashment of the same order, the implementation of which is sought to be stayed by way of interim relief. That being so, we are unable to persuade ourselves to grant the prayer made for interim relief.

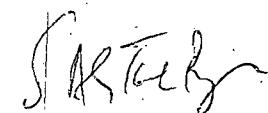
4. The impugned order dated 3.9.2001 merely stays the implementation of the office order dated 28.8.2001, by which the applicant has been promoted to the post of Office

Superintendent Grade-I. It does not annul that order. As such, a genuine grievance cannot, in our view, arise until the aforesaid promotion order dated 28.8.2001 has been set aside by the respondent authorities. In the absence of respondent authorities' version, we cannot really find out as to why the aforesaid promotion order has been held in abeyance until further orders. We are aware, however, that such orders might require to be held in abeyance or their implementation stayed until further orders upon the respondent authorities' coming to know certain new facts or on becoming aware of some fresh development in the matter. In such an eventuality, respondent authority is, according to us, within its rights to hold in abeyance such orders until the new facts and developments have been duly and properly looked into and examined with reference to the rule position and the law on the subject. Thus, we find it difficult to hold that the impugned order dated 3.9.2001, which merely holds the promotion order in question in abeyance until further orders, has given rise to a grievance which must be agitated before this Tribunal without allowing reasonable time to the respondent authority to pass a fresh order in continuation of the impugned order dated 3.9.2001. The matters can be gone into by the Tribunal only after a legally valid order has been annulled by the respondent authority without sufficient cause. As stated, no annulment has taken place in this case and, therefore, the occasion to interfere with the impugned order has not, in our view, arisen so far.

5. Notwithstanding the position stated in the previous paragraph, we also find that the existing rule position does not permit entertainment of the present OA. Under Section 20 of the Administrative Tribunals Act, 1985, the applicant

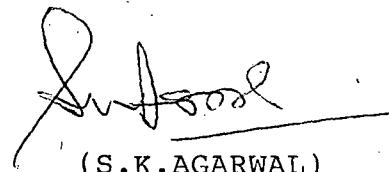
is required to exhaust departmental remedies available to him in respect of a grievance and to approach the Tribunal only after the period of time stipulated in that section has expired. Assuming that a service grievance has arisen by the impugned order (Ann.A/1), the same can be said to have arisen only ~~three~~ <sup>a few</sup> days ago. Admittedly, the applicant has not filed any representation in the matter before the respondent authority and has come up before us ~~on 7th Sept. 2001~~, i.e. within four days of the passing of the impugned order. In the circumstances, we also hold that the present OA has been filed prematurely.

6. For the reasons mentioned above, the OA is dismissed in limine.



(S.A.T.RIZVI)

MEMBER (A)



(S.K.AGARWAL)

MEMBER (J)