

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 25.03.2003

O.A. No. 530/2001 & 531/2001.

1. Yad Ram aged about 42 years, son of Shri Sanwan, Caste Koli, Resident of Gram Jaswant Nagar, Teh. Bayana, Distt. Bharatpur at present Gangman, in Kota Division, WesternRailwya, Kota, working under AEN (O) CCG, Bombay (Mumbai).
2. Shivcharan, aged about 42 years, son of Shri Devi Singh, caste Jaat, resident of Gram Judawai, Teh. Mathura, Distt. Mathura, working under IOW (O) BYR, Mumbai.

... Applicants in OA No. 530/2001.

1. Rajendra Singh, aged about 36 years, son of Shri Kishan Singh, Caste Rajput, resident of Gram Pilani Post & Teh. Bharatpur, Distt. Bharatpur (Raj).

... Applicant in OA No.531/2001.

Mr. Rajveer Sharma counsel for the applicants in both the OAs.

v e r s u s

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai -20.

... Respondent No.1 in both the OAs.

2. Chief Engineer (C), Western Railway, Church Gate, Mumbai-20.

... Respondent No.2 in both the OAs.

3. Divisional Railway Manager, Western Railway, Kota (Raj).

... Respondent No.3 in OA 531/2001 &

... Respondent No.4 in OA 530/2001.

4. Divisional Railway Manager, Western Railway, Jaipur.

... Respondent No.3 in OA 530/2001.

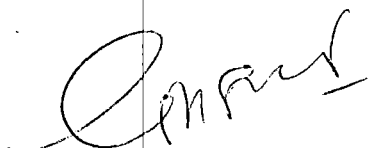
5. Chief Project Manager, Western Railway, Jaipur.

...Respondent No.4 in OA 530/2001.

Mr. S. S. Hassan counsel for the respondents in both the OAs.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.



: O R D E R :

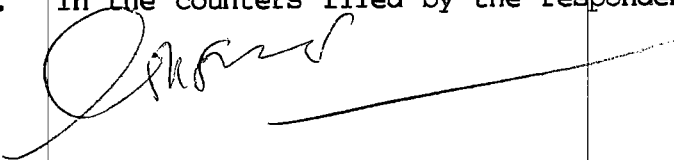
Per Mr. Justice G. L. Gupta.

Identical controversy is involved in both the matters and, therefore, they have been heard together and are being disposed of by this common order.

2. Applicant Rajendra Singh was engaged as Casual Labour on Construction Project on 24.09.1985. Temporary Status was conferred upon him on 24.09.1986 and he was regularised as Gangman in the scale of Rs.2610-3540/-. Applicant Yad Ram was engaged as Casual Labour on 17.09.1984. Temporary Status was conferred on him on 24.04.1986 and was regularised as Gangman on 29.11.1997. Applicant Shiv Charan was engaged as Project casual labour on 22.07.1985. Temporary Status was conferred on him on 22.12.1987 and was regularised as Gangman on 29.11.1987. All the three applicants were placed in Kota Division. In the order Annexure A-3, it was stated that their lien would be in Kota Division. However, they were instructed to work at Mumbai in the year 1998. When they were working at Mumbai, the impugned order dated 30.08.2000 (Annexure A-1) was issued whereby the applicants Headquarters was shifted from Bandikui to CCG Bombay.

The grievance of the applicants is that they are low paid employees and their Headquarters has been changed arbitrarily, malafidely and discriminately as persons junior to them have been retained in Kota Division. It is stated that the applicants were not paid TA and DA when they were asked to work in Mumbai and that they are unable to look after their family which reside in Rajasthan. It is prayed that the respondents be directed to repost the applicants in Kota Division.

3. In the counters filed by the respondents it is stated that the

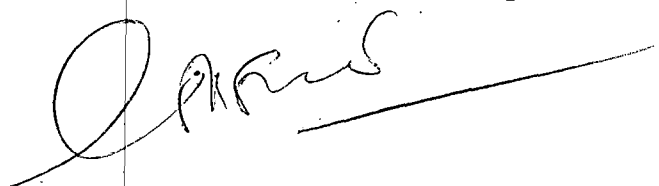


applicants are working in Mumbai and, therefore, this Bench of the Tribunal does not have territorial jurisdiction to consider the matter. It is further stated that the applicants are working in Construction Organisation under the Ministry of Railways which does not have any permanent staff and that the staff from open line is taken on loan to execute the work. It is further stated that the applicants are being paid House Rent Allowance admissible to Mumbai. It is averred that the applicants Headquarters had been temporarily shifted to Mumbai due to administrative exigencies where work is in progress and no work was available at Jaipur and Kota Divisions. It is stated that the applicants will be sent back to their parent division as and when the work at Mumbai is completed.

4. Heard the learned counsel for the parties and perused the documents placed on record. Most of the facts stated in the pleadings are not disputed. It is seen that the applicants hold lien in Kota Division and they have been temporarily shifted to Bombay to carry out the construction work. The impugned order was passed on 30.08.2000.

It is also admitted position that the applicants had been sent to Bombay in the year 1998 and they have been working there for the last five years. According to the respondents themselves, the headquarters of the applicants had been shifted to Mumbai temporarily as some work was to be done at Mumbai. It is not made clear in the reply, how much time is likely to be taken by the respondents in sending back the applicants to their parent division. This specific query was made by this Court on 03.12.2002 but the respondents counsel was not in a position to make any statement in this regard.

Needless to state the applicants are low paid employees. It is bound to cause much hardship to them if they are away from their

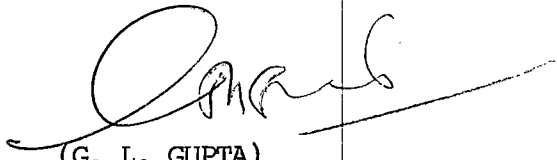
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parent division where their families reside. Respondents cannot be justified in keeping the applicants away from their family members for years together in the name of temporary transfer. A decision is required to be taken for sending them back to their parent division, wherein, their lien exists. Keeping in view the peculiar facts and circumstances of the cases, I find that the respondents should be directed to consider the matter of the applicants for re-transferring them to parent divisions sympathetically within a fixed time limit.

5. The objection as to the territorial jurisdiction was not pressed by the respondents. The applicants counsel did not agitate for the T.A. and D.A. for Mumbai as the applicants are being paid the House Rent Allowance of Mumbai.

6. Consequently, the respondents are directed to consider the matter for shifting back the applicants to their parent division by passing an appropriate order within a period of 3 months from the date of communication of this order.

7. No order as to costs.



(G. L. GUPTA)

VICE CHAIRMAN

jsv.