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R.A. 02/2002 with M.A. 48/03 in O.A. 412/02

Union of India & Ors. : Applicant(s)

Mr. R.G. Gupta : Advocate for the applicant(s)

Versus

Ms. Pooja Kulshrestha: Respondents

_____ : Advocate for the respondents

CORAM:

HON'BLE MR. G.C. SRIVASTAVA : MEMBER (A)

HON'BLE MR. M.L. CHAUHAN : MEMBER (J

1. Whether Reporters of Local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their lordships wish to see the fair copy of the judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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1. The Union of India, through
The General Manager
Western Railway, Churchgate
Mumbai
2. The Divisional Railway Manager
Western Railway, Ajmer Division
Ajmer.
3. The Chief Medical Superintendent
Western Railway, Ajmer Division
Ajmer.

Orig. Respondents/Applicants

Advocate: Mr. R.G. Gupta

Versus

Miss Pooja Kulshrestha
D/o. Shri M.K. Kulshrestha
Resident of Railway Bungalow No. 1344-B,
Beawar Road, Ajmer.

Orig. Applicant/Respondent.

ORDER**R.A. 02/2003 with M.A. 48/203 in O.A. 412/02****Date: 18/2/2003****Hon'ble Mr. G.C. Srivastava : Member (A)**

This RA has been moved by the original respondents in OA 412/02 decided by this Tribunal on 20th Nov. 2002 praying for reviewing the order passed in the aforesaid OA. The main ground taken in the R.A is that w.e.f. 1.10.2002 new zone has been formed viz. North Western Railway with Head quarters at Jaipur and

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Ajmer Division falls within the newly formed North Western zone and consequently there has been power reshuffle which could not be pleaded before the Hon'ble Tribunal as notice had not been issued to the respondents while passing the order dated 20.11.02. According to them the learned counsel for the original applicant had pleaded that the General Manager was the only competent authority to consider the application for compassionate appointment but in fact the father of the applicant had made an application dated 21.3.99 for granting appointment to his daughter Miss Pooja Kulshrestha and the said application which is to addressed to DRM Ajmer had been decided and the decision communicated vide order dated 9.6.2000 by the DRM who is the competent authority to entertain and consider the representation for compassionate appointment. According to them consequent to the formation of new zone called North Western Railway Zone, the General Manager, Churchgate, Mumbai has ceased to have jurisdiction in the matter of compassionate appointment from 1st December 2002 and the case has been sent to the General Manager, North Western Railway, Jaipur who has forwarded the same to the DRM Ajmer for needful. They have accordingly prayed that since the General Manager, Churchgate, Mumbai has no jurisdiction the order passed by the Tribunal is required to be re-called.

2. Before we go into the merits of the case we would like to deal with the MA 48/03 filed by the original applicant praying for condonation of delay. The main plea taken by the original respondents is that since the General Manager, Churchgate, Mumbai is no more in power to decide such matters since 1st December 2002 the orders of the Tribunal cannot be

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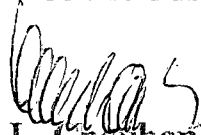
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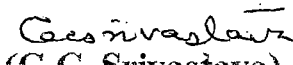
complied within the present form and hence the case has been sent to DRM Ajmer for needful. This has resulted in some delay and they have prayed that the same may be condoned by the Tribunal.

3. We have considered the prayer for condonation of delay and find that the delay is marginal and since the review has been sought mainly on the ground that the authority to whom direction had been issued to consider the case does not any more have the jurisdiction to do so, we consider it proper to condone the delay. Accordingly the delay is condoned and the MA is allowed.

4. We have considered the ground taken by the original applicants in this RA and find that the only ground on which directions were given to respondent no. 1 i.e. General Manager, Western Railway, Mumbai to consider the request of the applicant for compassionate appointment was the contention taken by the learned counsel for the applicant that DRM Ajmer is not the competent authority in this matter. Now that the original respondents have brought out clearly that after the formation of the new zone the General Manager, Western Railway, Mumbai does not have the jurisdiction and accordingly the case of the applicant has been finally sent back to DRM Ajmer, the directions given in the OA by this Tribunal need to be re-called. We therefore order that the order passed in the OA No. 412/2002 on 20.11.2002 be recalled and the OA be placed before an appropriate bench for decision on merits after hearing the learned counsel for both the parties.

5. RA stands disposed of.


(M.L. Chaudhan)
Member (J)


(G.C. Srivastava)
Member (A)

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