

Central Administrative Tribunal
Jabalpur Bench

OA No.972/05

Jabalpur, this the 31st day of October 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

Mahesh Kumar Sharma
S/o Shri Ran Niranjan Sharma
R/o 79, Nabi Nagar
Aishbagh Stadium
Bhopal.

Applicant

(By advocate Shri S.Nandy on behalf of
Shri S.Paul)

Versus

1. Union of India through
General Manager
West Central Railway
Indira Market
Jabalpur.
2. The Divisional Railway Manager (P)
Bhopal Division
Bhopal.
3. The Divisional Railway Manager (P)
Bhusawal Division
Bhusawal.
4. Shri Devanand Rajak
Asstt. Chief Ticket Collector
Through the Divisional Railway Manager (P)
Itarsi Division
Khandwa.

Respondents

(By advocate: Shri M.N.Banerjee)

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ORDER

By A.K.Gaur, Judicial Member

In this application, the applicant is challenging the order dated 22.6.05 (A-1) whereby he was transferred on reverted post of Ticket Collector from Bhusawal Division to Bhopal Division.

2. According to the applicant, he was initially appointed on 11.8.1980 as Ticket Collector and posted at Bhopal. He earned due promotions as Train Ticket Examiner, Head Ticket Collector and finally as Assistant Chief Ticket Inspector (Rs.5000-9000) vide order 14.11.2004 (A-2). After the promotion the applicant was transferred from Bhopal to Bhusawal Division. Vide an application dated 16.11.02 (A-3), the applicant requested to forego his promotion due to some personal problem but it was rejected by the respondent department vide order dated 29.11.02 (A-4). Thereafter the applicant submitted his joining on 1.8.04. It has been stated in the OA that the applicant is a heart patient and had to undergo a bye-pass surgery on 2.1.2002 and due to the heart ailment, he could not submit his joining immediately after his transfer on promotion at Bhusawal. Since the applicant is a heart patient and his children are studying at Bhopal, he later on preferred an application dated 15.10.04 for a transfer at own request, stating that he was willing to work even on lower post. Subsequently the applicant realized his mistake and made a number of representations requesting for withdrawing own request transfer. It is also stated in the OA that applicant made a representation dated 1.8.2004 requesting to register his name for transfer to Khandwa in the same grade. However, according to the applicant, the respondents favoured another person there ignoring the claim of the applicant. According to the applicant, he was reverted from the post of Assistant Chief Ticket Inspector to the post of Ticket Collector, which is the

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initial grade of the applicant, thereby downgrading 3 posts. Aggrieved by the downgrading, the applicant has filed this OA for setting aside the order dated 22.6.2005 (A-1 and for a direction to the respondents to post the applicant either at Khandwa or at Bhopal as Assistant Chief Ticket Inspector (Rs.5500-9000).

3. The respondents in their reply contend that the applicant had sought transfer from Bhusaval Division to Bhopal Division from the post of Train Ticket Inspector at least to the post of Ticket Collector and voluntarily given a separate declaration (in Hindi) on 15.10.2004 stating therein that he was willing to go on transfer to Bhopal even in lower grade as Ticket Collector. He had sought transfer from Central Zone to West Central Railway Zone under his application A,B,C, forms and declaration dated 15.10.2004 and accordingly this proposal was forwarded to Chief Personnel Officer (Commercial), Mumbai, CSTM vide letter dated 18.10.2004 for necessary action. The Headquarters office accepted the proposal vide letter dated 3.2.2005. Since the above transfer is at own request of the applicant, he will have to accept bottom seniority in Grade Rs.3050-4590/-. This Tribunal has no jurisdiction to interfere in the administrative decision taken by the respondent. The OA is liable to be dismissed, contend the respondents.


4. We have heard the learned counsel for the parties appearing on either side.

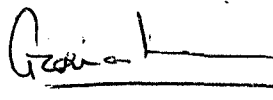
5. It is seen that the applicant has been transferred from Bhusaval to Bhopal at his own request under the Railway Rules and once he has accepted the proposal, he is estopped from challenging the validity of the said action by the respondents. The OA is barred by principle of estoppels and acquiescence. It has been submitted by the respondents that this Tribunal has ^{no} jurisdiction to interfere in the administrative

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decision take by the respondents and that too at the behest of the applicant. We have also seen from the records that the transfer of the applicant made at his own request has received the concurrence of the Headquarters and therefore the action to relive him was initiated in accordance with rules. The applicant also submitted A.B.C. forms requesting ~~to~~ transfer from Bhusawal to Bhopal. He also gave a declaration that he was willing to go on transfer in lower grade as Ticket Collector.

6. In these circumstances, we see no justification for our interference in the matter. In our considered view, the OA is devoid of merits and is liable to be dismissed. Accordingly OA is dismissed. No order as to costs.


(A.K. Gaur)
Judicial Member




(Dr. G.C. Srivastava)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिनिधि अच्योचित:-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आचार्य श्री/श्रीमती/श्री/.....के काउंसलर
- (3) प्रमुख श्री/श्रीमती/श्री/.....के काउंसलर
- (4) कंसलर, को.प.अ., जबलपुर न्यायालय के
सूचना एवं आवश्यक कार्यवाही के लिए

उप रजिस्ट्रार


7.11.06