

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.415/04

Jabalpur, this the 17th day of ~~December~~, 2004.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

1. Shri Subhodh Kumar
S/o Shri Surendra Rai
R/o Quarter No.RB-I/9/A
Railway Colony
P.O.Obedullahganj
Dist. Raisen (MP).
2. Jitendra Sharma
S/o Shri Vijay Kumar Sharma
R/o Quarter No.RB-II/13/B
Railway Station, Kalhar
P.O.Kalhar
Dist. Vidishah (MP)
3. Mohd.Agha Shahi
S/o Mohd Rasheed
R/o House No.RB-II/43/A
R.D.Railway Colony
Vidishah (MP)

Applicants

(By advocate Smt.S.Menon)

Versus

1. Union of India through
Secretary, Ministry of
Railways, Rail Bhawan
New Delhi.
2. Chief Personal Officer
Central Railway
Mumbai.
3. General Manager
West Central Railway
Jabalpur.
4. General Manager
East Central Railway
Hajipur (Bihar).
5. Divisional Railway Manager
West Central Railway
Bhopal (MP).
6. Senior Divisional Signal & Teleco
Engr., West Central Railway
Bhopal.



7. Shri C.B.Prasad
Audit
Electrical Signal Maintainer Grade II
C/o Office of the General Manager (P)
East Central Railway
Hajipur.
8. Shri S.K.Singh
Audit
Electrical Signal Mainainer Grade II
Office of the General Manager (P)
East Central Railway
Hajipur. Respondents.

(By advocate Shri S.P.Sinha for off.respondents)

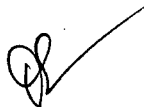
O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicants have sought the following reliefs;

- (i) To direct the respondents, in particular, respondents 5 & 6 to relieve the applicants to East Central Railway, Hajipur, in accordance with the order dated 30.12.2002.
- (ii) To direct respondent No.2, General Manager, East Central Railway, Hajipur, to maintain seniority of applicants above respondents 7 & 8 and to grant them all other service benefits and place them at par with private respondents 7 & 8.

2. The brief facts of the case are that due to formation of new Zonal Railways at Eastern Central Railway, Hajipur and North Western Railway, Jaipur, respondents issued a circular dated 31.7.2002 informing the staff to submit options voluntarily. Applicants 1,2 & 3 submitted options for East Central Railway which were duly received by the authorities on 25.8.02. So far as option form of applicant No.2 is concerned, he could not retain a copy of the proforma. The General Manager, East Central Railway, Hajipur issued an order dated 30.12.02 requesting for release of staff if they are free from S.P.E/Vig/DE cases. In the said list, names of applicants 1-3 are




reflected at Sl.No. 19,20 & 21 whereas the names of respondents 6 & 7 appear at Sl.No.22 & 23. After issuance of the said order, the applicants requested the authority concerned to relieve them vide application dated 24.8.02. The Railway Ministry vide its circular of 30.10.03 informed all General Managers to transfer the staff to the Headquarters Offices of the new zonal railways. In the said circular, reference was also made to the conference of General Managers held in the Board's office on 28/29.10.03. The decision that was taken in the said conference has been detailed in the said circular. The target date fixed was 30.4.2004. In other words, the transfer of the staff had to be effected on the basis of seniority. Instead of relieving the applicants, respondents No.5 relieved the respondents No.7 & 8 vide order dated 27.5.03 and 6.2.04. Copies of the said orders are Annexures A-10 & A-11. The applicants submitted representations to the Divisional Railway Manager on 10.3.04 wherein the applicants objected that juniors have been relieved while without any reason or justification, the applicants have not been relieved. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicants that the respondents issued a circular dated 31.7.02 (Annexure A4) in which options were invited for newly created zonal railways - Eastern Central Railway, Hajipur and North western Railway, Jaipur. Applicants 1,2 & 3 submitted their options on



25.8.02 and 27.8.02 respectively. Applicant No.2 could not retain a copy of the option. According to the list issued by East Central Railway dated 30.12.02 (Annexure A7), the names of applicants 1,2 & 3 are shown as Sl.No.19, 20 & 21, while the names of private respondents 6 & 7 appear at Sl.No.22 & 23. Apparently, they are mentioned in this list after the names of the applicants. while ignoring the aforesaid letter dated 30.12.02 (A-7), the respondents have relieved private respondent No. ~~7~~ ~~8~~ vide order dated 27.5.03 and 6.2.04 (Annexures A10 & A11 respectively). The applicants have made representations.

4. In reply, learned counsel for the respondents argued that a letter dated 31.7.02 was issued inviting options. Options of applicants 1 & 2 were received in the office of respondent No.5 on 5.9.02. The aforesaid letter did not require the optees to submit options direct to the new zone i.e. East Central Railway, Hajipur. Hence if it was submitted by applicants directly to East Central Railway, it was of no consequence. No receipt of the said option by East Central Railway has been enclosed in support of the contention that their options were received on 25.8.02. No order for ~~relieving~~ the applicants was passed by the West Central Railway (HQ) and hence on the letter of the East Central Railway, Hajipur, respondent No.5 could not take any action. The division cannot relieve any person unless orders are issued by the zonal HQ under whom the division is working. Hence no action could be taken by respondent 5.



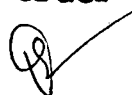
In fact, the applicants should have requested the HQ office for issuance of the order. Respondents 7 & 8 were relieved as per the orders of the zonal authority which alone is competent to make such order. The learned counsel further argued that usually in such cases first the juniors are relieved as seniors are required to perform the duties. In case all the senior technical staff is relieved, the division would suffer in its day to day working. The action of respondent No.5 in relieving respondents 7 & 8 is neither illegal nor malafide. They were relieved as per the direction of the west Central Railway HQ office as the last date of relieving was 30.4.04. The counsel further argued that the applicant by virtue of seniority, are coming in the zone of consideration for higher grade of Rs.4500-7000 and on passing the screening test and on the basis of records they may be promoted and hence there is no question of suffering any loss. The respondents, on ~~account~~ of acute shortage of technical staff, has not been able to accede to the request for transfer to Hajipur, and further argued that only 15 employees named in the list, it was agreed, are to be transferred. Hence the names of the applicants were not included.

5. Again in rejoinder, the learned counsel of the applicants argued that the contention of the respondents is that only 15 employees named in the list were to be transferred to Hajipur. Applicants 1 to 3 ~~are~~ are at Sl.No. 19.20.&21, instead of relieving them, private respondents 7 & 8 who are at Sl.No.22 & 23 were transferred. It is



apparently wrong and illegal and further argued that the contention of the respondents that juniors are relieved first and in case technical staff is relieved, the division would suffer, is also against facts and law and in view of the list dated 30.12.02 (A7), the contention of the respondents is also baseless, as options of 3 applicants are mentioned in A7 and in Annexure A5 of applicant No.1 the option is given. The said option was received by the official respondents on 25.8.02 and the option of applicant No.3 was received on 27.8.02. Hence it cannot be said that these options were sent on 5th Sept. 2002. It is argued on behalf of the applicants that the applicants are ready to forego their promotions and are interested in their transfer to East Central Railway, Hajipur, according to their options.

6. After hearing the learned counsel for the parties and careful perusal of the records, we find that options were invited vide letter dated 31.7.02 (Annexure A4) for transfer to two newly created zonal railway headquarters i.e. Eastern Central Railway, Hajipur and North Western Railway, Jaipur. The applicants had submitted their options out of time. The options submitted by the applicants were received in the office of the respondents on 25th and 27th August, 2002 respectively (Annexures A5 & A6). About the option of applicant No.2, it is argued on behalf of the applicants, that the applicant No.2 could not retain a copy of the option form, but the name of the applicant No.2 is also mentioned in the letter dated 30.12.02 at Sl.No-20. It shows that the contention of the applicants is ^{correct} correct. The names of private respondents 7 & 8 are mentioned after the names of the applicants. S.K.Singh, private respondent No.8 was relieved vide order dated 27.5.03 and C.B.Prasad, private respondent No.7 was relieved vide order dated 6.2.04



(Annexure A10 & A11 respectively). Learned counsel for official respondents were directed to file affidavits giving options given by the applicants and the private respondents 7 & 8. The official respondents have filed the affidavit.

7. We have perused the affidavit filed on behalf of the official respondents in which it is mentioned that the option of applicant No.1 Shri Subhodh Kumar was received in the office of the respondents on 25th August 2002 and the options of applicants No.2 & 3 - Jitendra Sharma and Mohd.Agha Shahi - were received on 28th August, 2002, while the options of private respondents 7 & 8, namely, C.B.Prasad and S.K.Singh, were received in the office of the official respondents on 24th August 2002, i.e. earlier to the options of all the ~~3~~ applicants. In view of the above fact, we are of the considered opinion that the respondents have not committed any irregularity or illegality. Hence this OA has no merit. Accordingly, the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

aa.

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

(1) सविन, उच्च न्यायालय न्याय एडवोकेटजन, जबलपुर

(2) आदेशिका श्री. श्री. श्री. के काउंसल

(3) प्रत्यक्षी श्री. श्री. श्री. के काउंसल

(4) वकील, न्यायालय, उच्च न्यायालय, जबलपुर
सूचना एवं आधिकारिक बल्लारी हेतु

उप रजिस्ट्रार

S. P. Singh Adv. J.B.P.

S. P. Singh Adv. J.B.P.

Issued
On 22.12.04