

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 959 of 2004

Jabalpur this the 25 day of November, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Pramod Kumar Shrivastava,
S/o. Keshav Das Shrivastava,
Aged about 48 years, Qr. No.
254-C/1, Madhur Nagar, Railway Colony,
Ujjain (MP).

.... Applicant

(By Advocate – None)

V e r s u s

1. Union of India, through the General
Manager, Western Railway, Mumbai CST,
Mumbai.
2. Divisional Railway Manager,
Western Railway, Ratlam Division,
Ratlam.
3. Sr. Operating Manager, O/o. Divisional
Railway Manager, Ratlam Division,
Ratlam.
4. Chief Lobby Supervisor,
Ujjain Station, Ratlam Railway Division,
Ujjain.

.... Respondents

(By Advocate – Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

“(ii) hold that the order dated 18.12.2002 Annexure A-2 is null and void,



(iii) set aside the order dated 20.9.2004 (Annexure A-1) and 18.12.2001 (Annexure A-3),

(iv) direct the respondents to implement the order dated 27.6.2001 Annexure A-1 and permit the applicant to work as Goods Guard with all consequential benefit."


2. The brief facts of the case are that the applicant was initially appointed on 23.3.1983 in the respondents Department. He was considered for promotion as Head Train Clerk in the pay scale of Rs. 5000-8000/- and he was promoted as Head Train Clerk on 7.6.1992 on regular basis. He worked on the said post till June, 2001. While working as such he became surplus. The applicant was directed to submit his willingness to work as Goods Guard in the pay scale of Rs. 4500-7000/-. Accordingly, he submitted his willingness. His option was accepted by the respondent No. 2 and he has issued an order dated 27.6.2001 (Annexure A-2) whereby the applicant was posted as Goods Guard at Ujjain Station. As per direction of Shri V.P. Shukla, Lobby Supervisor, the applicant started working as Goods Guard independently with effect from 9.12.2001 and he worked till 17.12.2001. Since the applicant had requested to permit him to work, Shri Shukla became annoyed with the applicant and issued the order dated 18.12.2001 (Annexure A-3) whereby the applicant was posted back to the Station Manager alongwith two other Head Train Clerks. Since the respondent No. 2 i.e. the DRM, Ratlam has issued the order dated 26.7.2001, the respondent No. 3 i.e. the Divisional Operating Manager, Ratlam had no power or authority to modify or cancel the order dated 27.6.2001 (Annexure A-2). Against the order dated 18.12.2001 (Annexure A-3) the applicant preferred representation on 14.3.2002 (Annexure A-4). When no heed was paid by the respondents on the representation of the applicant he submitted a legal notice to the respondents but the respondents have not considered the same. In spite of the order of the respondent No. 2 to declare him as Goods Guard the applicant was not permitted to work as Goods Guard. He preferred



another representation and filed OA No. 483/2004 which was decided vide order dated 23.6.2004 (Annexure A-6), whereby the respondents were directed to decide the representation of the applicant by passing a speaking order. The representation of the applicant was rejected vide order dated 20.9.2004 (Annexure A-1) by respondent No. 3. This is an illegal order. Hence, this Original Application is filed.

3. None is present for the applicant. Since it is an old case of 2004, we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Head the learned counsel for the respondents.

4. It is argued on behalf of the respondents that they have denied the issuance of the letter dated 27.6.001 (Annexure A-2) by the office of the Senior Divisional Operating Manager, Ratlam and also there is no question of permitting the applicant to join as Goods Guard. The question of issuance of the letter dated 27.6.2001 is also denied at length in the order dated 20.9.2004 (Annexure A-1). The applicant was never declared surplus in the post of Head Train Clerk. However, on applicant's own option to work as Goods Guard, on normal practice, he was deployed to work as Goods Guard from 9.12.2001 to 17.12.2001. This does not confer any right for transfer of cadre to Goods Guard which is a selection post for which there is a specific selection procedure. After 17.12.2001 the applicant went back to his original post of Head Train Clerk. In compliance with the order of the Tribunal dated 23.6.2004 passed in OA No. 483/2004 a detailed and speaking order has been passed by the Senior Divisional Operating Manager, Ratlam who is competent to decide the representation of the applicant. Annexure A-7 is a routine transfer order passed in public interest on administrative exigency. This order is not under challenge in the present petition. Hence, this Original Application deserves to be dismissed.



5. After hearing the learned counsel for the respondents and on careful perusal of the pleadings and records, we find that the respondents have specifically denied about the issuance of the alleged letter dated 27.6.2001 (Annexure A-2) by the office of the Senior Divisional Operating Manager, Ratlam. The applicant has filed no rejoinder controverting the aforesaid contention of the respondents. The present OA is mainly based on the basis of the aforesaid letter dated 27.6.2001 (Annexure A-2) and this document is specifically denied by the respondents in their reply. We have perused the earlier order of the Tribunal dated 23rd June, 2004 passed in OA No. 483/2004, whereby certain directions were issued to the respondents. We have also perused the impugned order dated 20.9.2004 (Annexure A-1) in which it is specifically mentioned that the alleged order dated 27.6.2001 was never issued from the office of the respondents.

6. Considering all the facts and circumstances of the case, we are of the view that this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पतिविराधि जलपिबत:-

- (1) सचिव, जलपिबत जलपिबत, जबलपुर
- (2) आदेशक श्री/श्रीमती.....
- (3) प्रत्यक्षी श्री/श्रीमती.....
- (4) जलपिबत, जलपिबत, जलपिबत

सूचना एवं आवश्यक जलपिबतों हेतु
उप रजिस्ट्रार

483/2004
29.11.05

29/11/05

S. Paul
M. K. Bhatnagar