

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.104/02

Jabalpur this the 26th day of July, 2004.

C O R A M

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

1. Suryabali Pandey  
S/o Shri Hirralal Panday  
R/o C/o Surendragarh TC Centre  
Bajrang Chowk,  
Veterinary College, Nagpur  
at present R/o Raja Gokuldas  
Dharmasala, Jabalpur.
2. Shalikram Patel  
S/o Shri Vishwa Nath Patel  
R/o Surendragarh, Bajrang Chowk  
Nagpur.
3. Nageshwar Prasad Shukla  
S/o Shri Triveni Prasad Shukla  
R/o Surendragarh, Bajrang Chock  
Nagpur.
4. Surendra Prasad Nigam  
S/o Shri Chandra Sharan Nigam  
R/o Surendragarh, Bajrang Chowk  
Seminary Hills, Nagpur,  
Ward No.56, Nagpur .
5. Dilraj Singh  
S/o Shri Janardan Singh  
R/o New Balaji Nagar  
Plot No.78, Ward No.14  
Pushpa Thakur Bhawan  
Nagpur.
6. Virendra Kumar Tiwari  
S/o Bhaiyalal Tiwari  
R/o Jai Maha Laxmi Kirana Stores  
Surendragarh, Bajrang Chowk  
Ward No.56, Nagpur.
7. Santosh Nigam  
S/o Shri Harisharan Nigam  
R/o Village Karmau, Post Bairiha  
Branch Ramban, Dist,Satna(MP )
8. Jivrakhan Patel  
S/o Shri Ramjiwan Patel  
R/o Chandra Nagar  
Near Corporation School  
Plot No.149, Post Parwati Nagar  
Ward No.14, Nagpur.
9. Dashrath Singh  
S/o Shri Ramashish Singh Thakur  
R/o Surendragarh, Bajrang Chowk  
Seminary Hills, Ward No.56  
Nagpur.

...Applicants

(By advocate Shri R.D.Ahirwar on behalf of  
Shri R.S.Siddiqui)

Versus

1. Union of India through  
The Secretary to the Govt. of India  
Ministry of Railways  
New Delhi.
2. The Chairman  
Railway Board  
Ministry of Railways  
Rail Bhawan, New Delhi.
3. Chief Personnel Officer  
Central Railway, Head Office  
Chhatrapati Shivaji Terminus  
Mumbai.
4. Divisional Railway Manager  
Central Railway, Nagpur.
5. Divisional Railway Manager  
Central Railway, Jabalpur.      ...Respondents.

(By advocate Shri H.B.Shrivastava)

O R D E R (oral)

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks the following main reliefs:

- (i) Direct the respondents to regularise the applicants in Group D vacancies in Railway Division, Nagpur and they be posted against the post according to their status immediately.
- (ii) Respondents be restrained from posting the applicants as Safaiwala and the applicants be not compelled to do the work of Safaiwala.

2. The brief facts of the case are that the applicants are commission vendors and they have been working as such under the control of Divisional Railway Manager, Nagpur since 1956 but they have not yet been regularised inspite of Supreme Court's directions. The applicants inspite of being regularised in Group 'D' vacancies in Nagpur Railway Division, were being proposed to be temporarily posted in Railway Division, Jabalpur till they are permanently regularised/absorbed. To the surprise of the applicants, they were being asked to do the work of Safaiwala which was below category and their religion does not allow them to do the work of Mehtar. Hence applicant No.1 made a



representation dated 18.12.2001 for not compelling him to do the work of Safaiwala (Mehtar) (Annexure A-6) but his representation was not considered and an endorsement was made on his representation on 20.12.2001 to the effect that in case he does not work as Safaiwala, he be sent back to the office of Divisional Railway Manager, Nagpur. Inspite of the representation of the applicant No.1, an order was passed by the office of Divisional Railway Manager, Jabalpur in respect of all applicants and they have been posted as Safaiwala in Group 'D' at the station mentioned against their names in the impugned order dated 19.12.2001. The applicants submitted an objection on 27.12.2001 to the taking of work of Safaiwala against their will but their request does not appear to have been considered so far and the applicants are being compelled to do the work of Safaiwala. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicants that the applicants were regularised in Group 'D' vacancies in Nagpur Railway Division. They were asked to do the work of Safaiwala (Mehtar) which was below their category and their religion does not allow them to do the work of Mehtar. Applicant No.1 made a representation against it and instead of passing any sympathetic order, the respondents made an endorsement on his representation to the effect that in case he does not work as Safaiwala, he be sent back to the office of DRM, Nagpur. The representation of the applicants was also rejected arbitrarily without considering the genuine grievance and the feelings of the applicants. The whole action of the respondents is arbitrary, illegal and unjustified.



4. In reply, the learned counsel for the respondents argued that the applicants are serving as Group 'D' category which includes Safaiwala and the work of Safaiwala does not only mean the work of Mehtar which includes washing, cleaning furniture, book shelves etc. All types of work are allotted to the applicants and further argued that in para 4.6 of the OA, the applicants have admitted that they are doing the work of Safaiwala for the last two years though they have stated that they are doing this work under compelling circumstances but that is not the fact. They are performing their legal duties according to the legal orders and they are not compelled by the respondents in any way and further argued that the applicants' case is being considered for absorption. It was made clear in advance to all the applicants that those who are medically fit in A-2 category will be absorbed as station porters and rest others who were medically fit in lower categories will be absorbed as Safaiwala in operating department. The applicants were further advised in clear terms that in case they are not willing to work as Safaiwala, they can go back to Nagpur Division. Since the applicants gave their willingness to be absorbed as Safaiwala in operating department, they were posted accordingly and are since working as such. The question of cast and creed does not arise. The applicants are estopped from challenging the order passed by the respondents.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that the applicants are working on the post of Safaiwala from 1956. According to their own version in para 4.6 of the OA, the contention of the applicants that they are being compelled to do the work of Safaiwala seems to be not tenable in view of the arguments advanced by the respondents, as the applicants gave their

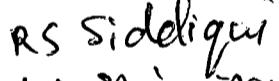
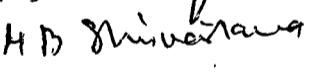
willingness to be absorbed as Safaiwalas and they were posted accordingly and are working as such. The question of cast and creed does not arise in this matter. Applicant No.1 is not discriminated with other applicants and similar work is allotted to all the applicants. The applicants are absorbed in Jabalpur Division and they could not show any order by which they can obtain the reliefs sought.

6. Considering all the facts and circumstances of the case, and on perusal of the records, we find that there is no merit in this case. Hence the OA is dismissed.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

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मूलांकन सं. ओ/व्या.....जबलपुर, दि.....  
प्रतिलिपि दादा दिला:-  
(1) सदिय, उच्च व्यायालय वाई एवोरिएशन, जबलपुर  
(2) आवेदक श्री/श्रीमती/व्या.....दे काउंसल  
(3) प्रत्यर्थी श्री/श्रीमती/व्या.....दे काउंसल  
(4) व्यायालय, लेप्रा. जादलपुर एवं रायपुर  
सूचना एवं आवश्यक कार्रवाई हेतु   
  
  
16-8-04  
अम रजिस्ट्रार

Issued  
On 16.8.04  
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