

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

original Application No. 1092/2000

Jabalpur, this the 19th day of April, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

1. Harprasad s/o Babulal
Ex-Gangman, Unit No. 13
Under P.W.I., Gadarwara.
2. Pooran Lal s/o Mansingh,
Ex-Gangman, R/o village Sihora,
Post Sihora, Teh. Gadarwara,
Distt. Narsinghpur (MP).
3. Munnalal s/o Gyani,
Ex-Gangman, R/o Q.No. RBI 17,
Bheraghat, Rly. Station,
Bheraghat, Distt. Jabalpur.
4. Abdul Gaffar s/o Abdul Hamid,
Ex-Gangman, R/o Diamond Tailors,
Subhash Chowk, Katni,
Distt. Katni (MP).

...Applicants

(By Advocate: None)

-versus-

1. Union of India through
Secretary,
Ministry of Railways,
Railway Board,
New Delhi.
2. General Manager,
Central Railway,
CST Mumbai.
3. Divisional Railway Manager,
Central Railway,
Jabalpur (MP).

...Respondents

(By Advocate: Kum. A. Banerjee)

O R D E R (ORAL)

By Shri M.P. Singh, Vice-Chairman:

By filing this O.A., the applicants have claimed the following main reliefs:-

"8.1 That this Tribunal be pleased to quash the impugned order dated 31.10.2000 (A/1).

8.2 That the respondent no. 3 may kindly be directed to maintain the status-quo till the disposal of the application."

2. Brief facts of the case are that the applicants were working as Gangman under the respondents and they were medically

decategorised. After medical decategorisation, the applicants were posted as Conservancy Sawaiwala under the impugned order dated 31.10.2000 (A/1). The grievance of the applicants is that no consent has been obtained from them before appointing them as Conservancy Sawaiwala after medical decategorisation. On the other hand, learned counsel for the respondents stated that the applicants, who were working as Gangman under the respondents railway, were medically decategorised. Therefore, they were given the alternative job of Conservancy Sawaiwala protecting their pay on such absorption. According to the respondents, no consent is required to be obtained from the applicants in such cases as per ^{rules. In} paragraph 1303 of the ~~Rule 1303 of the R.R.M.~~. It is further stated by the learned counsel for the respondents that while giving alternative employment, consent of the employees concerned is not necessary. What is important is that the employees, who have been medically decategorised, do not suffer any pecuniary loss and are posted on such posts carrying equivalent basic pay, which they were enjoying prior to their medical decategorisation. According to the respondents, the applicants have been placed in the same basic pay which they were drawing before their medical decategorisation. Therefore, the present O.A. does not have any merit and deserves to be dismissed.

3. None is present on behalf of the applicant. Since this is an old matter pertaining to the year 2000, we propose to decide this case by invoking the provisions of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

4. We have given careful consideration to the contentions of the respondents' counsel and we find that as per para 2 of the letter dated 11.12.2000 (R/2) issued by the Ministry of Railways consent of the employees, who have been medically decategorised, is not necessary to be obtained. Para 2 of the said letter is reproduced below:

"2. It has come to the notice of this Ministry that

medically decategorised employees posted to alternative posts are declining to join the same and continue to draw salary against special supernumerary posts, resulting in a large number of medically decategorised employees continuing to hold special supernumerary posts without any work, thereby adversely affecting the Railway's functioning. The Ministry of Railways wish to clarify that in the extant provision in the Manual, no option is available to a medically decategorised employee to decline the alternative employment to which he is posted. Accordingly, in the order appointing a medically decategorised employee to an alternative post, it should be provided that if he does not take up the alternative employment immediately, the payment of salary to him against special supernumerary posts would be discontinued forthwith."

5. In the present case, the applicants were medically decategorised from Gangman and were posted as Conservancy Safaiwala. In terms of the instructions contained in letter dated 11.12.2000 (Annexure R/2), referred to above, no consent is required to be obtained from the employees, who have been medically decategorised.

6. In the facts and circumstances of the case, we are of the considered view that the present O.A. is devoid of merit and deserves to be dismissed which is accordingly dismissed. No costs.

(Madan Mohan)
Member (J)

(M.P. Singh)
Vice Chairman

/na/

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि वाच्य विषय:-

- (1) सचिव, उच्च न्यायालय एवं एडमिनिस्ट्रेशन, जबलपुर
- (2) उद्देश्य श्री/श्रीमती/शु.....के कार्डसल H.R. T. Hart
- (3) प्रत्यक्ष श्री/श्रीमती/शु.....के कार्डसल A. Banjee
- (4) ग्रंथपाल, को.अ., जबलपुर व कार्डसल सूचना एवं आवश्यक कार्यवाही हेतु

उप निदेश

Hand
21-11-01