

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.301/2005.

Jaipur, this the 25th day of November, 2005.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

Mahendra Singh Panwar
S/o Shri Chhotu Ram Panwar,
Aged about 56 years,
R/o House No.541, Ward No.2. Charkhi Dadri,
Rewari, Haryana.

... Applicant.

By Advocate : Shri Arvind Soni.

Vs.

1. Union of India
Through General Manager,
North Western Railway,
Station Road,
Jaipur.
2. Senior Divisional Mechanical Engineer (Establishment
North Western Railway,
Station Road,
Jaipur.
3. Sube Singh
S/o Shri Sheodan,
Section Engineer, Carriage Depot,
Rewari.

... Respondents.

By Advocate : Shri Anupam Agarwal.

: O R D E R (ORAL) :

The applicant has filed this OA against the impugned order dated 27.6.2005 whereby the order dated 17.6.2005 was modified and the applicant was transferred from Rewari to Phullera. When the matter was listed for admission on 5.7.2005, this Tribunal while issuing the notice to the respondents passed the following order :-

"5.7.2005.

.....

Heard the Learned counsel for the applicant. The learned counsel for the applicant submits that applicant was given promotion on the post of Section Engineer vide order dated 17.6.2005 and simultaneously on his promotion, he was posted at Rewari. It is further stated that the applicant joined as Section Engineer at Rewari on 21.6.2005. The grievance of the applicant is that vide order dated 27.6.2005 the order dated 17.6.2005 has been modified and the applicant was transferred from Rewari to Phullera just to accommodate Respondent No.3

I have perused the material placed on record. From the perusal of the impugned order, it is evident that the transfer was effected just to accommodate Respondent No.3. Besides that, the impugned order shows non application of mind. Once the applicant joined the post of Section Engineer on 21.6.2005, the order dated 17.6.2005 could not have been modified. As on 27.6.2005 when the impugned order was passed, the applicant was no longer the Junior Engineer but has joined the post of Section Engineer and as such it was not legally permissible for the respondents to modify the order dated 17.6.2005. In case the respondents wanted to transfer the applicant from the post of Section Engineer from Rewari to Phulera they could have passed fresh order instead of modifying the order dated 17.6.2005, which stood already exhausted pursuant to joining of the applicant on the post of Section Engineer Rewari on 21.6.2005. Having not done so, *prima facie*, impugned order dated 27.6.2005 is not legally sustainable.

In view of what has been stated above, I am of the view that the applicant has made out a case for grant of interim stay. Accordingly, the operation of the order dated 27.6.2005 is stayed till the next date of hearing.

- sd -

(M. L. CHAUHAN)
JUDICIAL MEMBER"

2. In the reply filed by the respondents they have stated that pursuant to the direction given by this

Tribunal it was decided to comply with the direction. Accordingly an order has been passed on 26.10.2005 and the impugned order of transfer, so far as it relates to the applicant, stood cancelled. The respondents have also placed on record the copy of this order as Annexure R/2. In view of this subsequent development, the present OA has become infructuous and does not survives. Accordingly, the OA is dismissed as having become infructuous.


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./