

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Jaipur, the 08<sup>th</sup> day of September, 2008

ORIGINAL APPLICATION NO.151/2006

CORAM :

HON'BLE MR.B.L.KHATRI, ADMINISTRATIVE MEMBER

Phool Singh Meena,  
Dy.Train Controller,  
Western Railway,  
Balsad,  
R/o Adarsh Nagar,  
Jangid Bhawan Wali Gali,  
Gangapur City (Raj.)

... Applicant

(By Advocate : None)

Versus

1. Union of India through  
General Manager,  
West Central Railway,  
Jabalpur.
2. Divisional Railway Manager (Estt),  
West Central Railway,  
Kota.
3. General Manager,  
Western Railway,  
Churchgate,  
Mumbai.
4. Divisional Railway Manager,  
Western Railway,  
Mumbai Central.
5. Anupam Mandal,  
Asstt.Train Controller (Ad hoc),  
C/o Chief Controller of West Central Railway,  
Kota Division (Raj.)

... Respondents

(By Advocate : Shri T.P.Sharma)

ORDER (ORAL)

PER HON'BLE MR.B.L.KHATRI

The applicant is not present despite the fact that notice was sent to him. It is presumed that the applicant is not interested in appearing before this Tribunal. However, this <sup>is</sup> OA being decided on merits.

2. The applicant has filed this OA thereby praying for the following relief :

- “(i) It is, therefore, prayed that the entire record concerning to case may kindly be called and after examination the respondents letter dated 4.4.2006 (A/1) may be declared arbitrary, quashed and set aside.
- (ii) The respondents may be further directed to allow the applicant to work on Kota Division in terms of A/2, A/3, A/4 & A/5.
- (iii) Cost may be awarded in favour of the applicant.”

3. The brief facts of the case are that the applicant was appointed as Assistant Station Master in scale-Rs.4500-7000 on 17.8.1996 at Mumbai Division in Railway. He was promoted as Assistant Train Controller in scale Rs.5500-9000 in the month of January, 2003 at Mumbai Division. He was further promoted as Dy.Train Controller in scale Rs.6500-10500 in the month of May, 2004. The applicant got his name noted on inter-railway division transfer from Mumbai Division of Western Railway to West Central Railway, Kota Division. Respondent No.1 i.e. General Manager, West Central Railway, has accorded his approval for inter-railway transfer of the applicant as Assistant Train Controller from Mumbai Division of Western Railway to Kota Division of West Central Railway on the terms and conditions mentioned in their letter dated 29.7.2004 (Ann.A/2). The General Manager, Western Railway, has also accorded his approval for the said inter-railway transfer vide

his letter dated 14.12.2005 (Ann.A/3). The Divisional Railway Manager, Mumbai, issued a letter dated 25.1.2006 (Ann.A/4), by which the applicant was transferred to Kota Division as Assistant Train Controller (scale Rs.5500-9000) i.e. on reversion from the post of Dy.Train Controller (scale Rs.6500-10500). The DRM, Mumbai Central, has relieved the applicant on inter-railway transfer, vide letter dated 6.2.2006 (Ann.A/5), to Kota Division of West Central Railway at his own request. The applicant resumed his duty at Kota Division on 7.2.2006 and was awaiting for posting orders at Kota Division. Respondent No.2 i.e. DRM, Kota Division, was assuring the applicant for his posting as Assistant Train Controller at Kota Division but to utter surprise of the applicant, the order dated 4.4.2006 (Ann.A/1) has been issued directing the applicant to report back to the Mumbai Division as Dy.Train Controller, stating inter-alia that there was no vacancy. This order was issued by DRM Kota but it is not evident from the said order whether approval of General Manager, Jabalpur, or General Manager, Mumbai, was sought or not.

4. The applicant after having spared from Mumbai Division of the Western Railway on 6.2.2006 kept waiting at Kota upto 4.4.2006 and has not been paid any salary for the reasons best known to the respondents. The inter-railway transfers are considered only when there is vacancy on a particular division on which request is made. Inter-railway transfer orders, at the request of the applicant,

have neither been modified nor cancelled by any authority and as such the statement of respondent No.2 that there was no vacancy does not appear to be sound and logical. It is also submitted that there is vacancy of Assistant Train Controller at Kota Division on which Shri Anupam Mandal, Goods Guard, (respondent No.4) is working purely on adhoc basis without any selection and as such action of the respondents by sending the applicant back to Mumbai Division is uncalled for, arbitrary, capricious and without logic.

5. The respondents have contested this OA and filed their reply. Learned counsel for the respondents has vehemently argued and stated that the applicant has got no case at all and he made the following submissions. The applicant is not entitled to get any relief as applicant was transferred as per his own request of inter-railway as Assistant Controller from Mumbai Division of Western Railway to Kota Division of West Central Railway. However, in absence of <sup>vacant</sup> the post, he could not be allowed to join his duty at Kota Division. The applicant has not filed any representation to the General Manager before filing the OA before this Tribunal. As such, he has not exhausted the departmental remedy. The only submission made by the respondents is that the applicant was not allowed to join the duty due to non-availability of vacancy for the post of Assistant Train Controller at Kota. The only plea taken by the respondents in their additional affidavit is that the applicant could not be allowed to join at Kota

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because respondent No.4 was already working on the said post.

6. After having heard learned counsel for the respondents and perused <sup>of</sup> the record, I have come to the conclusion that because of non-ascertainment of proper facts by the General Manager, Jabalpur, and General Manager, Mumbai, the applicant has <sup>been</sup> put to lot of inconvenience and he has been harassed for no fault of his. However, looking to the specific plea of the respondents that the applicant has not availed of the departmental remedy, the applicant is hereby directed to move the General Manager, Mumbai, and General Manager, Jabalpur, stating the facts of the case. Both the General Managers are directed to consider the case of the applicant sympathetically against the future vacancy.

7. With these observations, the OA stands disposed of with no order as to costs.

  
(B.L. KHATRI)  
MEMBER (A)

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