

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDER SHEET

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APPLICATION NO.: _____

Applicant(s) *S. A. Dutta*

Respondent (s) *209*

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

4.5.07

OA 278/2006

Mr. Nand Kishore, Counsel for applicant.
Mr. Anupam Agarwal, Counsel for respondents.
Arguments heard. The OA stands
disposed of by a separate order.

(S.P. Shukla)
M(A)

(Vandana Singh)
VC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 4th day of May, 2007

ORIGINAL APPLICATION NO.278/2006

CORAM :

HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

S.K.Dutta,
Head Clerk under the control of
Chief Adm.Officer (C),
North Western Railway,
Jaipur.

By Advocate : Shri Nand Kishore

... Applicant

Versus

1. Union of India through
General Manager,
Hasanpura Road,
Jaipur.
2. Chief Administrative Officer (Construction),
North Western Railway,
Opposite Railway Hospital,
Hasanpura Road,
Jaipur.
3. Divisional Railway Manager,
Western Railway,
Kothi Compound Rajkot (Gujarat).

By Advocate : Shri Anupam Agarwal

... Respondents

ORDER

PER HON'BLE MR.J.P.SHUKLA

The applicant has filed this OA under Section
19 of the Administrative Tribunals Act, 1985,
praying for the following relief :

"Direct the respondents i.e. General Manager,
North Western Railway, to consider to option
submitted by the applicant on 21.7.2002 (A/5)

which was received in the office of General Manager on 8.8.2002 (A/6) duly forwarded by CAO (C) Jaipur, respondent No.2, as controlling authority of the applicant. The name of the applicant be taken in the lien of HQ Office of N.W.Rly. Jaipur like the employees mentioned in A/3 dated 16.6.2006."

2. The brief facts of the case, as stated by the applicant, are that the applicant has been working in the Construction Department of the Railway since 22.3.80. The lien of the applicant was maintained with Rajkot Division of the Western Railway. After the proposal for creation of new Zones, the applicant submitted his option, in time, for maintaining his lien in the HQ Office of the newly created zone i.e. North Western Railway with its HQ at Jaipur. The option form was submitted to the controlling authority i.e. CAO (C), Jaipur, who forwarded the same to the office of General Manager, N.W.Rly. vide letter dated 8.8.2002. The office of General Manager, NWR, issued a list, dated 13.9.2002, of the staff considering their transfer to HQ office of NWR Zone. The applicant and some other officials did not find their names in the said list and as such they made a joint representation to the General Manager, NWR. Their controlling authority i.e. CAO (C) Jaipur also made various references in this regard but the General Manager, NWR, did not reply to the same. The applicant was never informed about any action in this regard either by CAO (C) or by the General Manager. Now the applicant has come to know that his option was not considered only because the same was not forwarded through proper channel i.e. by the Division where his lien is maintained.

3. Heard the learned counsel for the parties and perused the material placed on record.

4. At the very outset, learned counsel for the applicant submitted that the present matter is identical and covered with the decision rendered by this Tribunal in OA 483/2004 on 23.3.2007 in the

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case of **S.K.Sharma & Ors. V. Union of India & Ors.**, and produced a photo-stat copy thereof for perusal of the Tribunal. He also argued that the applicant is working in the Construction Unit since appointment and he never worked in the Divisional Office. The applicant applied for his lien/posting in the North Western Zone with its HQ at Jaipur in 1997 and again in 2002. The applicant is required to be considered for posting in North Western Zone under priority (ii) of Railway Board's letter dated 6.12.96 (Ann.A/2). The Option form executed by the applicant was correctly forwarded through the authority having administrative control over Construction Unit. He also referred the names of Smt.Sadhana Meena and Smt.Rekha Soloman, who were also from the office of CAO (C), Jaipur, and whose names have been approved for keeping in the new Zone. But case of the applicant has been ignored. It was further argued that it is nowhere mentioned in the letters dated 6.12.96 (Ann.A/2) and 9.7.2002 (Ann.A/4) that the options should be forwarded through lien maintaining authority and as such rejecting the option on the basis that it was not forwarded by and received through the respective divisional office is not based on the provisions issued by the Railway Board.

5. Learned counsel for the respondents argued that application of the applicant was not forwarded through the Division where his lien was maintained and the application exercising option was submitted through CAO (C), the controlling officer. He also drew our attention to para 4.1 of the Railway Board's letter dated 6.12.96, which reads as under:

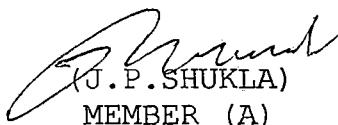
"4.1 The options received may be forwarded to the OSDs of the New Zonal Railways for further necessary action. List of options should be forwarded category-wise, grade-wise and strictly in order of seniority. This entails commitment to spare the staff for transfer to the new zonal railway as and when required by the concerned new zonal railways."

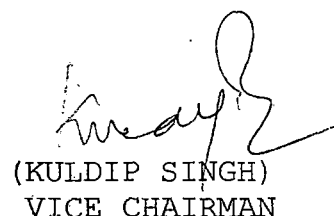
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On perusal of the aforesaid provision, we find that it is nowhere mentioned that the application for exercising option is to be routed through the Unit where the lien of the applicant was maintained.

6. In view of the foregoing and after perusal of the material on record, it is observed that the option was exercised by the applicant in time and submitted through the controlling officer, who forwarded the same as per administrative channel for necessary consideration. It was a case of absorption and not selection or promotion. In case any relevant information was required from the lien maintaining authority, the respondents could have found out from the Unit, where the lien of the applicant was maintained. In the Railway Board's letter, referred to above, it is nowhere mentioned that the application exercising option for absorption is to be submitted through the Unit where the lien is maintained.

7. This OA is, therefore, disposed of with a direction to the respondents to consider the applicant for absorption in the North Western Zone, even by creation of a supernumerary post, if necessary, as timely application exercising option for absorption was submitted by him and he has been working satisfactorily in the Construction Organisation of the North Western Railway and, therefore, he deserves priority. No order as to costs.


(J.P. SHUKLA)
MEMBER (A)


(KULDIP SINGH)
VICE CHAIRMAN

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