

18.01.2007

OA No. 312/2006

Mr. Vinod Goyal, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents.

Heard the learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.

J.P. SHUKLA
(J.P. SHUKLA)
MEMBER (A)

(M.L. CHAUHAN)
(M.L. CHAUHAN)
MEMBER (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

Jaipur, the January, 18th 2007

ORIGINAL APPLICATION NO. 312/2006

CORAM:

HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDICIAL)

HON'BLE MR. J.P. SHUKLA, MEMBER(ADMINISTRATIVE)

Dayal Babu G son of Shri Genda Das aged about 43 years, resident of Kalyan Ji Gate, Sunaron Ke Mandir Ke Pass, Swami S.T.D. Gangapur City, District Sawaimadhopur presently holding the post of Sr. Bhisti.

By Advocate:Mr. Vinod Goyal

....Applicant

Versus

- 1 Union of India through General Manager, Western Central Railway, Jabalpur (M.P.)
- 2 The Divisional Railway Manager, Western Central Railway, Kota.
- 3 The Station Manager, Western Central Railway, Gangapur City.
- 4 The Chief Ticket Inspector (Station), Western Central Railway, Gangapur City.
5. Shri Noor Mohameed, Bhisti C/o Chief Ticket Inspector (Station), Western Central Railway, Gangapur City.

By Advocate: Mr. Anupam Agarwal

....Respondents.

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) That by an appropriate order or direction the impugned order dated 15.08.2006 (Annexure A/1) may kindly be quashed and set aside.
- (ii) That by an appropriate order or direction the respondents be directed not to displace the applicant from the present place of posting in the office of Goods Supervisor, Gangapur City and he be allowed to work as Seal Man in the aforesaid office without creating any hindrance.
- (iii) Any other appropriate order or direction, which this Hon'ble Tribunal thinks just and proper may also be given."

2. When the notice was issued to the respondents on 24.08.2006, this Tribunal passed the stay order on the basis of the contention raised by the applicant and passed the following order:-

"Heard the learned counsel for the applicant on interim prayer.

Issue notices to the respondents returnable within two weeks. Notices will be served by the applicant on the respondents by Hum Dust/Speed Post within three days and proof will be submitted in the Registry within seven days. The respondents are directed to file reply to the interim prayer within ten days. Let the matter be listed on 7.9.2006.

The contention raised by the applicant is that no doubt the applicant was promoted as Senior Bhisti in the grade of Rs.2610-3540 w.e.f. 6.12.2002 but he was allowed to continue as Sealman in the office of Goods Supervisor Gangapur City as the post of Senior Bhisti was declared surplus. The grievance of the applicant is that now he is being replaced as can be seen from the impugned order 15.8.2006 (Ann.A1) and his apprehension is that applicant may be declared surplus and he may be relieved from the post of Sealman which he is occupying till date. In view of what has been stated above, the applicant has made out a case for grant of ex-parte interim order. Accordingly, the respondents are directed to maintain status quo qua the applicant till the next date."

3. The said stay is still operating. Notices of this application was given to the respondents. The respondents have filed their reply. In the reply, it has been stated that the applicant is a substantive Bhisti. It is further stated therein that there is no sanctioned cadre in the name of Sealman under the control of Goods Supervisor, Gangapur City. For that purpose, the respondents have also enclosed statement showing cadre strength as

Annexure R/1. The respondents have also stated that this fact has been admitted by the applicant in Paras nos. 4.3, 4.5 and is also evident by Annexure A/5. Thus according to the respondents, any averment made by the applicant to the effect that he was discharging the duties of Sealman is without any substance. The respondents have further stated that applicant is a junior-most Bhisti and as such he has no right to be absorbed or allow to work in priority over the other seniors. The respondents have also placed on record the extract of seniority list as Annexure R/2 to substantiate this aspect of the matter.

4. Applicant was given repeated opportunities to file rejoinder but he has not filed any rejoinder.

5. In view of what has been stated above, we are of the view that no relief can be granted to the applicant. Even otherwise also vide Annexure A-1, one Shri Noor Mohammad has been given the work of Bhisti. There is no order which shows that applicant has been displaced. Thus the fact that on account of joining of Shri Noor Mohammad, the applicant shall be displaced cannot be presumed at this stage. Even on this ground, the present OA is premature and no relief can be granted to the applicant.

6. For the foregoing reasons, the OA is disposed of. Stay already granted on 24.08.2006 shall stand vacated.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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