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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

16.01.2009

OA No. 190/2008

Mr. S. Srivastava, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.

This case has been listed before the Deputy Registrar due to non availability of Division Bench. Be listed before the Hon'ble Bench on 27.02.2009.


(GURMIT SINGH)
DEPUTY REGISTRAR

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27.02.2009

OA No. 190/2008

Mr. Shailendra Shrivastava, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.

Heard learned counsel for the parties.

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


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

(16/02/2009)
RAJIV K. SHARMA
TAHQI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 27th day of February, 2009

ORIGINAL APPLICATION NO. 190/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER,

1. Manik Chandra Soni son of Late Shri Ram Dayal Soni aged about 51 years, resident of C-8-B, Mother Tera Nagar, Gatore Road, Jaipur. Presently posted as S.S. (SWR) under COM, NWR, HQ, Jaipur.
2. Rajesh Yadav son of Shri B.S. Yadav aged about 41 years, resident of House No. 5, Officers Extension, Sirsi Road, Khatipura, Jaipur. Presently posted as S.S. (SWR) under COM, NW R, HQ, Jaipur.

.....APPLICANTS

(By Advocate: Mr. Shailendra Shrivastava)

VERSUS

1. Union of India through General Manager, North Western Railway, In Front of Railway Hospital, Hasanpura Road, Jaipur.
2. Chief Personnel Officer, HQ, North Western Railway, GM Office, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. V.S. Gurjar)

ORDER (ORAL)

The applicants have filed this A thereby praying for the following reliefs:-

- (I) That this Hon'ble Tribunal may graciously be pleased to direct the respondents to grant absorption and lien to the petitioner in the HQ of North Western Railway with all consequential benefits, which are accrued or likely to be accrued in future keeping in view of their options submitted well in time for permanent absorption in NWR and also on the basis of the decision for absorption of other similarly situated persons taken by the administration itself vide orders dated 16.06.2006 and 28.12.2007 in the light of the various judgements rendered by this Hon'ble Tribunal.
- (II) That respondents may further be directed to produce complete dossier pertains to the absorption of the petitioners in HQ, NWR especially alongwith the remarks given by the APO and COM who is departmental authority of the petitioners.

- (iii) Any other order or direction in favour of the petitioners which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- (IV) Award the cost of the petition in favour of the petitioner."

2. Briefly stated, facts of the case are that the applicant while working as Station Superintendent in Western Railway sought their transfer to the newly created zone of North Western Railway. They submitted their option within time. Pursuant to the option submitted by the applicants, they were transferred to North Western Railway vide order dated 30.09.2002 (Annexure A/3) with clear stipulation that their lien shall continue at their respective divisions. The applicants were transferred against the newly created work charge posts for the period from 23.09.2002 to 31.03.2003. It is not in dispute that the period was further extended from time to time. The grievance of the applicants in this OA is that they should be absorbed in the North Western Railway.

3. Notice of this application was given to the respondents. The respondents have filed their reply. The stand taken by the respondents is that there was no regular cadre of the category of Station Master, to which the applicants belonged at Headquarter at the time of their transfer as such they were allowed on temporary basis on work charged basis in North Western Railway. Thus in absence of any vacancy, the applicants cannot be absorbed in North Western Railway.


4. We have heard the learned counsel for the parties. The learned counsel for the applicants has drawn to our attention to Para No. 10.1 of the RBE No. 177/2003 dated 09.10.2003 (Annexure A/8) whereby the decision has been taken to merge Station Masters/ Assistant Station Masters, Yard Masters and Traffic Inspectors into one unified cadre of SM/ASM. Learned counsel for the applicants submits that in view of this decision, it was not permissible for the respondents to say that applicants cannot be absorbed. Learned counsel for the applicants has further argued that in similar situated circumstances, respondents have absorbed certain employees in North Western Railways even in the absence of vacancy and for that purpose our attention has been invited to letter dated 16.06.2006 (Annexure A/11) whereby order has been passed in respect of 14 persons.


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5. Learned counsel for the respondents submits that no doubt the respondents have taken a policy decision to merge the categories of Station Masters/Assistant Station Master, Yard Master and Traffic Inspectors into one unified cadre of Station Master/Assistant Station Masters but the decision has not been implemented in view of litigations and matter pending before the Tribunal/Court. As such so long as the decision in terms of the Railway Board Circular is not implemented, it is not possible for the respondents to absorb the applicants, as contended.

6. We have given due consideration to the submission made by the learned counsel for the parties. We are of the view that the matter can be disposed of at this stage with a direction to the applicants to make a comprehensive representation to the Chairman, Railway Board within a period of one month from today and the Chairman, Railway Board is directed to dispose of the same within three months from the date of receipt of such representation taking into consideration the grievance of the applicants and the fact that they were working in North Western Railway since 2003.

7. With these observations, the OA is disposed of with no order as to costs. We wish to make it clear that we have not given any finding on the merit of the case and the case is being disposed of in terms of observations hereinabove.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ