

V2

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

16.03.2012

OA No. 496/2008 with MA 10/2012

Mr. C.B. Sharma, Counsel for applicant.

Mr. Anupam Agarwal, Counsel for respondents nos. 1 to 3.

None present for respondent no. 4.

On the request of the learned counsel for the applicant, list it on 20.03.2012.

IR to continue till the next date.

By

Anil Kumar

(Anil Kumar)
Member (A)

K.S. Rathore

(Justice K.S. Rathore)
Member (J)

ahq

20/03/2012

OA No. 496/2008 with MA No. 10/2012

Mr. C.B. Sharma, counsel for applicants.

Mr. Anupam Agarwal, counsel for R-1 to 3.

None present for respondent No. 4.

Heard.

O.A. and M.A. are disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
(Anil Kumar)
Member (A)

K.S. Rathore
(Justice K.S. Rathore)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 20th day of March, 2012

Original Application No.496/2008

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDICIAL)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMINISTRATIVE)**

1. Rajendra Kumar Meena
s/o Ram Swaroop Meena,
working as Sr. Pharmacist,
North Western Railway,
Jaipur.
2. Pradeep Kumar Meena
s/o Manohar Lal Meena,
working as Chief Health Inspector,
North Western Railway,
Jaipur.

.. Applicants

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India,
through General Manager,
North Western Railway,
Hasanpura Road,
Jaipur.
2. The Chief Personnel Officer,
North Western Railway,
Hasanpura Road,
Jaipur

3. Chief Medical Director,
North Western Railway,
Hasanpura Road,
Jaipur
4. Divisional Railway Manager,
Ajmer.

.. Respondents

(By Advocate: Shri Anupam Agarwal for resp. 1 to 3)

O R D E R (ORAL)

The applicants are working as Senior Pharmacist and Chief Health Inspector respectively in the Headquarter, North Western Railway, Jaipur. The Ministry of Railway vide letter dated 6.12.96 and 9.7.2002 called upon options from the staff to serve in the Headquarters of the new railway zones- Determination of seniority of staff on transfer to the new zones. Consequently, the applicants submitted their options.

3. The lien of the applicants was maintained previously by Ajmer Division of the Western Railway. After proposal to create new zone, the applicants submitted their options for maintaining their lien in the Headquarter office of newly created zone i.e. North Western Railway, Jaipur.

4. The case of the applicants is that after considering option of the applicants approval was accorded by the competent authority and ordered them to transfer from Ajmer Division to Headquarter

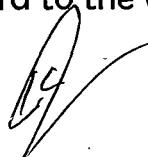


Office of North Western Railway, Jaipur and both the applicants joined and posted vide order Ann.A/7 and A/8.

5. The controversy arose when the lien of the applicants was maintained at Ajmer Division. It is alleged by the applicants that this is done only under the pressure of the Unions, therefore, this OA has been filed by the applicants claiming relief that the impugned order/letter issued by respondent No.2 dated 1.12.2008 regarding determination of lien of applicants at Ajmer Division may be quashed and set-aside and further prayed that the respondents be directed to determine the lien and seniority of the applicants at Headquarter, North Western Railway, Jaipur as per Ann.A/3 and A/4.

6. The main challenge to the action of the respondents is on the ground that the applicants have applied for their lien/posting in North Western Railway, Headquarter office of newly created zone with its Headquarter as Jaipur. In this respect, the competent authority of the North Western Railway, Jaipur sent letter to General Manager (E) dated 21.8.2002 (Ann.A/5) and considering the approval of the competent authority of North Western Railway, the competent authority of the Western Railway ordered to transfer them from Ajmer Division to HQ, NWR, Jaipur vide order dated 25.9.2002 (Ann.A/6).

7. Further, in the impugned order/letter dated 1.12.2008, respondent No.2 referred the minutes of joint meeting dated 21.4.2005 and stated that the minutes with regard to the applicants



also are approved by respondent No.1, which is totally misconceived and incorrect, as in the said meeting, the HOD of the applicants' department was not present and GM, NWR only accorded consent with regard to proposal A and no approval was given with regard to applicants' matter regarding determination of lien and seniority.

8. Per contra, the learned counsel appearing for the respondents strongly controverted the submissions made on behalf of the applicants and stated that the applicants cannot have any grievance against the order Ann.A/1 and A/2 because of the policy decision in consultation with both the Trade Unions in this regard. Further, order Ann.A/1 and A/2 nowhere determine the lien as alleged by the applicants.

9. This Tribunal on 19.12.2008 while hearing the matter on admission and while issuing notices to the respondents, stayed operation of the impugned order dated 1.12.2008 and respondents were directed not to relieve the applicants from their present posting till the next date of hearing and it is not disputed that in view of the interim order dated 19.12.2008, the applicants are still working at Headquarter, North Western Railway, Jaipur

10. In support of this submissions, the learned counsel for the applicants placed reliance on the judgment rendered by this Tribunal in OA No.253/2005 dated 25th July, 2007 (H.S.Nagpal and ors. Vs. Union of India and ors.) wherein the same controversy was involved and the applicants therein have filed the OA praying for following reliefs:-



“Direct the respondents i.e. General Manager, North Western Railway, to consider the options submitted by the applicants on 28.8.2002 (Ann.A/5), which were received in the office of General Manager on 28.8.2002 (Ann.A/6) duly forwarded by CAO (C) Jaipur, respondent No.2, as controlling authority of the applicants. The names of the applicants be taken in the lien of HQ Office of N.W.Rly Jaipur like the employees mention in Ann.A/3 dated 16.6.2006.”

The Tribunal having considered the judgment dated 4.5.2007 passed by this Tribunal in the case of S.K.Dutta vs. Union of India & Ors., OA No.278/2006, observed as under:-

“4. In view of the submissions made by the learned counsel for the parties and perusal of the documents placed on record and the decision dated 4.5.2007, passed by this Tribunal in OA 278/2006, which is taken on record, we are of the view that the present case is squarely covered by the decision referred to above and accordingly the same relief is being granted in the present OA as has already been given in OA 278/2006:

“This OA is, therefore, disposed of with a direction to the respondents to consider the applicants for absorption in the North Western Zone, even by creation of a supernumerary post, if necessary, as timely applications exercising option for absorption was submitted by them and they have been working satisfactorily in the Construction of the North Western Railway and, therefore, they deserve priority. No order as to costs.”



11. Having considered the rival submissions of the respective parties and upon careful perusal of the material available on record and after giving thoughtful consideration to the order passed by this Tribunal in OA No.253/2006, which has been relied by the applicants, we deem it proper to dispose of this OA with direction to the respondents to consider the applicants option for absorption in the Headquarter of new zone i.e. North Western Railway and shall pass fresh order regarding their lien at Headquarter of North Western Railway, Jaipur, if otherwise found suitable.

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

13. In view of the order passed in the OA, no order is required to be passed in MA No.10/2012 which shall stand disposed of accordingly.

Anil Kumar
(ANIL KUMAR)

Adm. Member

K.S.Rathore
(JUSTICE K.S.RATHORE)

Judl. Member

R/