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14.07.2009

OA No. 163/2009 with MA 109/2009

None present for the parties.

Adjourn to 23.07.2009.

(B.L. KHATRI)
MEMBER (A)

AHQ

23.07.2009

OA No. 163/2009 with MA 109/2009

Mr. S.K. Jain, Counsel for applicant.

Mr. Anupam Agarwal, Counsel for respondents.

MA 109/2009

The applicants have filed this MA thereby praying for filing Joint OA.

In view of the averments made in this MA, the same is allowed. The applicants are permitted to file joint OA.

The MA is disposed of accordingly.

OA 163/2009

Heard learned counsel for the parties.

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

(B.L. KHATRI)
MEMBER (A)

AHQ

Responder
not filed.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 23rd day of July, 2009

ORIGINAL APPLICATION NO. 163/2009

CORAM:

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

1. Sube Singh son of Sheidan Singh by caste Chamar aged 45 years, resident of L 56 A, Railway Colony, Rewari, Haryana, now a days Section Engineer, Railway Carriage and Wagon Department, Rewari, Jaipur Division, Jaipur.
2. Chhagan Behari Lal son of Babu Lal aged 53 years, resident of 619, Shiv Colony, Rewari, now a days Tech. Grade I Railway C&W, Rewari, Jaipur Division, Jaipur.
3. Jagannath son of Bhim Sen by caste Punjabi aged 53 years, resident o 1653 (104), Subhash Nagar, Rewari.

.....APPLICANT

(By Advocate: Mr. S.K. Jain)

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Jaipur Division, Jaipur.
3. The Chief Mechanical Engineer, Head Quarter Office, North Western Railway, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. Anupam Agarwal)

ORDER (ORAL)

The applicants have filed this OA against the Order dated 4.9.3.2009 whereby they have been declared surplus. Through this OA they have prayed for the following reliefs:-

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- "(a) By an appropriate order or direction the impugned order Ann. A 1 dated 4/9.3.2009 issued by the Divisional Office, Jaipur may be quashed and set aside. The respondents be directed to not to transfer the applicants in pursuance to the said order.
- (b) Any other relief this Hon'ble Tribunal deems fit may also be granted to them."

2. During the course of hearing, learned counsel for the applicants relied upon Para 4(vi) of the OA, which reads as under:-

- "(vi) That under the rules framed by the Railway Board the competent authority is required to give a notice to the employee asking him to give the option for being posted at the place of choice. In this case no such action has been taken by the respondents and hence they could not transfer the applicants to Jaipur on being declared surplus. It may also be stated that as per the circular dated 21.4.89 issued by the Railway Board, the willingness of the staff should be taken before the redeployed to other places. Not doing so the respondents have acted illegally. It may also be brought to the notice of this Hon'ble Tribunal that previously also vide the letter dated 22.1.2009 No. E/C&W/1086/1(loose) JE I Shri Harish Chand and Shri Shashi Kumar of the Carriage and Wagon department were absorbed as JE II in Electric Department. As there are vacancies in the Electric Department for the Technicians Grade I the applicants could also be given the same treatment and posted as Tech. Grade in the electric department. No doing so the respondents have violated Art. 14 and 16 of the Constitution of India and hence their transfer top Jaipur on the ground of their being declared surplus is illegal and liable to be set aside."

3. Learned counsel for the respondents relied upon the order of the DRM Office dated 22.01.2009(Annexure A/3) wherein it has been mentioned that employees mentioned at sl. Nos. 1 & 2 are senior employees. The junior employees have not given any option.

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Accordingly, senior employees have been absorbed in Electrical Department on their own request at bottom seniority.

4. Having regard to the fact of the case, the applicants are directed to make a self contained representation stating their option before the competent authority within a period of 15 days from the date of receipt of a copy of this order. If the representation is received within the aforesaid period, in that eventuality, the competent authority shall decide the same by passing a reasoned and speaking order within a period of one month from the date of receipt of the representation from the applicants. In case the applicants are aggrieved by the order to be passed by the competent authority, they shall be at liberty to approach this Tribunal again.

5. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)

AHQ