

5-1-2011

OA. 313/2009 &


OA. 251/2009.

Sh. Nand Kishore l.l. counsel for applicant in both OAs.

Sh. Anupam Agarwal l.l. counsel for respondent No 1 & 2
and Sh. Hara Singh Counsel for respondent No 3 in
OA 313/2009.Sh. T.P. Sharma l.l. counsel for respondent in
OA. 251/2009.

- Both the OAs are disposed of by way
of common order dictated in open Court as
the common question of law and fact is involved
therein.

Anil Kumar
(Anil Kumar)
Member (A)


(Mr. Chauhan)
Member (T)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 5th day of January, 2011

ORIGINAL APPLICATION NO.313/2009 & OA.251/2009

CORAM

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

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

OA NO.313/2009

1. Chhagan R. S/o Sh. Roopa, aged about 45 years working as Sr. Khalasi under Permanent Way Inspector (Construction) North Western Railway Udaipur, (Raj) Resident of Temporary Shed Near Mal Godam, Udaipur(Raj.)
2. Smt. Sattu R. W/o Shri Chhagan R., aged about 40 years, working as Sr. Khalasi under Permanent Way Inspector (Construction) North Western Railway Udaipur, (Raj.) Resident of Temporary Shed Near Mal Godam, Udaipur(Raj).

.....Applicants

(By Advocate: Shri Nand Kishore)

VERSUS

1. Union of India through General manager, North Western Railway, Hasanpura Road, Jaipur.
2. Chief Administrative Officer (Construction) North Western Railway, Jaipur.
3. Divisional Railway Manager, North Western Railway Ajmer.

.....Respondents

(By Advocate: Sh. Anupam Agarwal counsel for respondent No. 1&2 & Sh. Hawa Singh counsel for respondent No.3)

OA.251/2009

1. Mathur S/o Chhagan, aged about 45 aged, aged about 45 years working as Khalasi under Inspector of Works (Construction) North Western Railway Udaipur, (Raj) Resident of Temporary Shed Near Mal Godam Udaipur(Raj.)



2. Khima S/o Shri Rangji aged about 45 years working as Gangman under Permanent Way Inspector (Construction) North Western Railway Udaipur, (Raj.) Resident of Temporary shed Near Mal Godam, Udaipur(Raj.)
3. Bhima S/o Kanji, aged about 50 years working as Khalasi under Permanent Way Inspector (Construction) North Western Railway Udaipur, (Raj.) Resident of Temporary shed Near Mal Godam, Udaipur(Raj.)
4. Smt. Kamli D/o Shri Titoo aged about 40 years working as Male Khalasi under Permanent Way Inspector (Construction) North Western Railway Udaipur, (Raj.) Resident of Temporary Shed Near Mal Godam, Udaipur(Raj.)

(By Advocate: Shri Nand Kishore)

VERSUS

1. Union of India through General Manager, North Western Railway, Hasanpura Road, Jaipur.
2. Chief Administrative Officer (Construction) North Western Railway, Jaipur.
3. Divisional Railway Manager, North Western Railway Ajmer.

.....Respondents

(By Advocate: Shri T.P.Sharma)

ORDER (ORAL)

By this common order we propose to dispose of both these OAs as common question of law and facts is involved therein.

2. The applicants have filed these OAs, thereby praying for the following common relief(s):-

- i) The respondents may be directed to honour the Railway Board letter dated 26.4.2004(Annexure A/1) and spare the applicants to join on Ajmer Division where their lien is being maintained.
- ii) The respondent No.3 may be directed to publish the seniority list maintained by him and the lien of the applicants are maintained under his jurisdiction.
- iii) They may be further directed to consider the names of the applicants for promotion in accordance with seniority.

- iv) Any other directions and orders which are, deem proper in the facts and circumstances of the case may kindly be allowed to the applicants.

3. The main grievance of the applicants in these OAs is that though their lien has been maintained in Ajmer Division still they have been retained in the construction division on work charge posts contrary to the policy decision. Learned counsel for the applicants has drawn our attention to the Western Railway's letter dated 3.11.1997 (Annexure A-2) which reads as under:-

"Vide DRM(E) Ajmer's letter cited above the following project casual Labours of this construction unit, Ajmer are regularized under the terms and conditions mentioned therein(copy enclosed).

These employees are retained in this const. Unit on the work charged posts till further orders.

S.No.	Name of employee with father's name	Unit allotted for fixation of Lien in Ajmer Division
134.	Sattu -Roopa	Under P.W.I. Khemli
155	Chhagan-Roopa	Under PWI Mavli Junction.

Sd/-
Dy. CE(C) Ajmer

4. Notice of this application was given to the respondents. The fact that lien of the applicants was maintained in Ajmer Division is not disputed. The respondents have stated that as soon as services of the applicants are not required in the construction division, they will be repatriated to their parent division. It is further stated that right of the applicants, which will be admissible to them on account of their absorption in Ajmer Division, regarding promotion and seniority will be protected.

5. We have heard learned counsel for the parties and gone through the material placed on record. As can be seen from the Western Railway's letter dated 3.11.1997(Annexure A/2), relevant portion of which has been reproduced hereinabove, lien of the applicants was maintained in Ajmer Division and they have been retained on work charged posts till further orders. This order was passed on 3.11.1997, as can be seen from Annexure A/2. The retention of the applicants in the construction units on work charged posts was a temporary arrangement till further orders. However, the applicants have not been spared to their parent division even after a lapse of 13 years. Thus, we are of the view that grievance of the applicants for repatriation to their parent division can not said to be without any substance warranting rejection. Learned counsel for respondents submits that the applicants have not made any representation for their repatriation in the Ajmer Division rather the representation made by the applicant is for their transfer to ^{in Ahmedabad in} ~~Ajmer~~ Division. Thus according to learned counsel for the respondents applicant should highlight their grievances before the appropriate authority at the first instance.

6. In view of what has been stated above, we are of the view that the applicants should make representation before respondent No.2&3 regarding their repatriation to Ajmer Division and if such representation is made within 15 days from today, respondent No.2&3 will consider the same keeping in view the vacancy

40

position in Ajmer Division and their letter dated 3.11.1997 (Annexure A-2) and other policy decisions so taken by the Railway Board in this regard and pass a reasoned and speaking order within a period of six weeks from the date of receipt of the representation.

7. With these observations made hereinabove, both the OAs stand disposed of with no order as to costs.

8. Needless to add that in ~~any~~ case, the applicants are still aggrieved, it will be open for them to file a substantive application challenging the validity of the order ^{to be in} ~~so~~ passed by the respondents.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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

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