

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 8th day of March, 2011

ORIGINAL APPLICATION No.507/2009

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Vishnu Prakash Singh,
Station Master,
Railway Station,
Bundi (Rajasthan).

... Applicant

(By Advocate : Shri P.N.Jatti)

Versus

1. Union of India through
General Manager,
West Central Railway,
Jabalpur.
2. General Manager (P),
West Central Railway,
Jabalpur.
3. Divisional Railway Manager,
West Central Railway,
Kota.
4. Regional Labour Commissioner (Central),
Kendriya Sadan,
Block-1, 3rd Floor,
Vidhyadhar Station Road,
Kota.

... Respondents

(By Advocate : Shri Anupam Agarwal)

ORDER (ORAL)

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

"8.1 That by a suitable writ/order or direction the impugned order dated 11.11.2009 received on 16.11.2009 be quashed and set aside.

8.2 That further the respondents be directed to perform the duties as per the orders dated 12.2.2007 and

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6.7.2007 vide Ann.A/2 & A/3 and the applicant not be forced to perform the duty for 1 hrs."

2. Grievance of the applicant is regarding declaration of change of his classification from "Continuous" to "Essentially Intermittent" on the ground on which an employee can be directed to perform duty for additional hours.

3. Notice of this application was given to the respondents, who have filed their reply. In the reply, the respondents in the preliminary objection have stated that as per Part-II Rule-4 of the Railway Servants (Hours of Work and Period of Rest) Rules, 2005, any railway servant aggrieved by the declaration of classification may, within 90 days from the date of such declaration, prefer an appeal to the Regional Labour Commissioner. The respondents have further stated that the applicant has not availed the said statutory remedy and as such the present OA is not maintainable.

4. We have heard learned counsel for the parties. In view of the specific stand taken by the respondents by way of preliminary objection in the reply, we are of the view that the present OA can be disposed of with a direction to the applicant to file a statutory appeal in terms of the provisions, as noticed above, within a period of one month from today. In case such an appeal is filed by the applicant within the stipulated period, the Regional Labour Commission shall entertain and decide the same on merit instead of dismissing the same on the ground of limitation. Needless to add that in case the applicant ~~is~~ still feels aggrieved by the order to be passed by the Regional Labour Commissioner, it will be permissible for him to challenge the said order.

5. With these observations, the OA stands disposed of. No order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)
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M.L. Chauhan
(M.L. CHAUHAN)
MEMBER (J)