

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 24th day of February, 2011

ORIGINAL APPLICATION NO. 118/2010

CORAM

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

1. Inder Kumar Meena son of Shri Ranjeet Meena aged 25 years, presently posted as Assistant Loco Pilot, Bandikui.
2. Ramniwas Meena son of Shri Ram Narain Meena aged about 25 years, presently posted as Assistant Loco Pilot.
3. Muksh Kumar son of Shri Bhola Ram aged about 35 years, presently posted as Assistant Loco Pilot, Bandikui.
4. Mukesh Mukar Yogi son of Shri Chittarmal aged about 30 years, presently posted as Assistant Loco Pilot, Phulera.

.....Applicants

(By Advocate: Mr. Nand Kishore)

VERSUS

1. Union of India through General Manager, North Western Railway, Hasanpura Road, Jaipur.
2. Divisional Railway Manager, North Western Railway, Power House Road, Jaipur.

.....Respondents

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

ORDER (ORAL)

This is the second order of litigation. When the matter was listed on 26.02.2010, this Tribunal had passed the following order:-

"Heard learned counsel for the applicant.

Prima facie, we are of the view that the present OA is not maintainable in view of the provisions contained in Order 2 Rule 2 of the CPC and also on the principle of constructive resjudicata.

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2. The respondents have filed reply whereby they have categorically stated that the present OA is barred on the principle of

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constructive res judicata and in view of the provisions contained in Order 2 Rule 2 of the CPC, as such the present OA cannot be entertained. Besides it, the respondents have also stated that the applicant had joined his duties at the new place of posting pursuant to the impugned order, as such the present OA has become infructuous.

3. Learned counsel for the applicant submits that he will be satisfied if the direction can be given to the respondents to release daily allowance to the applicant on account of his temporary transfer in terms of the provisions contained in Para No. 1647 of IREM vol. 2.

4. Thus without going into whether the present OA is barred by the principle of constructive res judicata as well as not maintainable in view provisions contained in Order 2 Rule of the CPC, I am of the view that the present OA can be disposed of with liberty reserved to the applicant to make appropriate representation regarding payment of daily allowances to him in terms of the aforesaid rules. Accordingly, the applicant is directed to file representation to the appropriate authority within a period of one month from today. In case such representation is made, the appropriate authority shall decide the same within a period of two months from the date of receipt of the representation.

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


(M.L. CHAUHAN)
MEMBER (J)

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