

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 12th day of May, 2011

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HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER

1. **ORIGINAL APPLICATION NO. 93/2010**

Vijay Singh Shekhawat son of Shri Mool Singh Shekhawat by caste Rajpur, aged about 57 years, resident of Mandawar Mahua Road, T-29-C, presently working as Station Superintendent of Nadbai (Bharatpur), Rajasthan.

.....Applicant

(By Advocate: Mr. P.N.Jatti)

VERSUS

1. Union of India through General Manager, North West Railway, Jaipur.
2. Union of India through the General Manager, North Central Railway, Allahabad.
3. Divisional Railway Manager, DRM Office, North Central Railway, Agra Cantt.
4. Divisional Railway Manager (ESH), DRM office, North Western Railway, Jaipur.

.....Respondents

(By Advocate: Mr.R.G. Gupta)

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ORIGINAL APPLICATION NO. 94/2010

Hoti Lal Sharma son of Shri Ramesh Chandra Sharma by caste Sharma, aged about 43 years, resident of Mandawar. Presently working as AGM on Railway Station, Mandawar Mahua Road.

.....Applicant

(By Advocate: Mr. P.N.Jatti)

VERSUS

1. Union of India through General Manager, North West Railway, Jaipur.
2. Union of India through the General Manager, North Central Railway, Allahabad.

3. Divisional Railway Manager, DRM Office, North Central Railway, Agra Cantt.
4. Divisional Railway Manager (ESH), DRM office, North Western Railway, Jaipur.

.....Respondents

(By Advocate: Mr.R.G. Gupta)

3. ORIGINAL APPLICATION NO. 95/2010

Ramphool Meena by caste Meena aged about 53 years, resident of Helak. Presently working as Senior Superintendent, Railway Station Helak, North Central Railway, Agra.

.....Applicant

(By Advocate: Mr. P.N.Jatti)

VERSUS

1. Union of India through General Manager, North West Railway, Jaipur.
2. Union of India through the General Manager, North Central Railway, Allahabad.
3. Divisional Railway Manager, DRM Office, North Central Railway, Agra Cantt.
4. Divisional Railway Manager (ESH), DRM office, North Western Railway, Jaipur.

.....Respondents

(By Advocate: Mr. R.G. Gupta)

ORDER (ORAL)

By way of this common order, I propose to dispose of all these three OAs as common question of facts and law are involved in these cases. The case of Vijay Singh Shekhawat (OA No. 93/2010) is taken as a leading case.

2. Brief facts of the case are that the applicant has been appointed in the respondents department on 03.10.1975. Since the date of



appointment, the applicant worked on different stations and in 2003, the applicant was posted at Mandawar Road Mahua Road and presently he has been working at Nadbai as Station Superintendent. On 31.03.2003, the Mandawar Mahua was the station of Jaipur Division but w.e.f. 01.04.2003, Mandawar Mahua road was bifurcated in Agra Division and was transfer under Agra Division. The case of the applicant is that options were called for but the applicant did not opt for the newly created zone at Agra and wants to remain in the Jaipur Division and to this effect, the applicant has also represented to the respondents as he has not opted to join with the Agra Division and wants to be in the Jaipur Division and prayed that he may be posted in Jaipur Division as the present place of posting is in the Agra Division but when no order for the transferring the applicant from Agra Division to Jaipur Division has been passed, the applicant preferred an OA No. 462/2007 and the same was decided by this Tribunal on 15.01.2009 whereby this Tribunal directed the applicant to file representation before respondent nos. 3 & 4 i.e. Divisional Railway Manager, North Central Railway, Agra and the Divisinal Railway Manager, North West Railway, Jaipur within a period of one month from the date of the order and respondents were directed to dispose of the representation of the application by passing a reasoned and speaking order within a period of two months from the date of receipt of the representation. The applicant pursuant to the direction given by this Tribunal represented before the respondents and the respondents vide their letter dated 27.03.2009 rejected the same and taken plea that as per Memorandum of Understanding, the sectional staff will be transferred on, as is where is basis on 01.04.2003. Money value of staff for headquarter office, as indicated earlier, will be transferred as per

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prescribed % age for each category of staff. The staff of different departments joining headquarter at AGC will be posted from combined seniority list made from optees from all the concerned divisions. Details of options called with applications are being compiled. All staff who have opted for Jaipur Division and presently working in Agra section and whose orders have been issued before 31.3.2003 but could not be relieved due to exigency of work in section/or for want of vacancy in Jaipur should be relieved for Jaipur Division as & when position permits in Agra Section and vacancy arises in Jaipur division without losing their seniority. The details of such staff will be furnished to Agra Division. It was further made clear that transferred staff will also retained their existing quarters/accommodation. The service records of the staff will be transferred after accounts vetting preferably by 01.04.2003. It is made clear vide order dated 06.12.1996 issued by the government of India, Ministry of Railways in Clause 3, which reads as under:-

"3. It should also be made clear to the staff that those who opt for transfer should be prepared for transfer accordingly. However, the mere fact of their exercising an option does not necessarily imply that their transfer would be automatically effected. It is essentially the efficient working of the headquarters offices of the new zones which will have to be kept in view in deciding the transfer of staff of the new zonal railways."

3. It is an admitted fact that the applicant has not given the option. Learned counsel for the respondents also drawn my attention to letter dated 30.08.2005 (Annexure R/3) whereby the Jaipur Division has refused to accept the employees who have given option for Agra Division.



4. Taking the case of Vijay Singh, it is informed at Bar that Shri Vijay Singh is going to be retired after a period of three months and the main grievance of the applicant in this OA is that if he has been treated an employee of Agra Division then he may have to face many practical difficulties regarding combined seniority and retrial benefits and all the time he will have to rush to Agra for completion of formalities as required.

5. I have carefully considered the Memorandum of Understanding under the heading 'Transfer of Staff' in sub Para 2 that all staff who have opted for Jaipur Division and presently working in Agra section and whose orders have been issued before 31.03.2003 but could not be relieved due to exigency of work in section/ or want of vacancy in Jaipur should be relieved for Jaipur Division as & when position permits in Agra Section and vacancy arises in Jaipur Division without losing their seniority. It is also made clear that staff will also retain their existing quarters/accommodation. Looking to the facts of Vijay Singh, is now working at Nadbai, which was earlier part of Jaipur Division, now part of Agra Division. He prayed that after attaining the age of superannuation, his service record be send to Jaipur Division for retrial benefits and without losing the seniority, he may be given his retrial benefits by the Jaipur Division.

6. Whereas in the case of other applicants, Shri Hoti Lal Sharma (OA No. 94/2010) who has also not opted the Agra Division and was given appointment in the year 2003 and presently working at Mandawar Mahua Road as AGM and the same was part of the Jaipur Division now transferred to Agra Division. Shri Hoti Lal Sharma also



preferred OA No. 465/2007, which was decided by this Tribunal on 05.01.2009 wherein the respondents were directed to dispose of the representation of the applicant to be filed by him. The respondents vide letter dated 27.03.2009, pursuant to the direction given by this Tribunal, rejected the representation of the applicant in view Memorandum of Understanding that sectional staff will be transferred on as is where is basis on 01.04.2003. It is also not disputed that the applicant, Shri Hoti Lal Sharma, has not opted the Agra Division and he is not going to be retired in a short span of time. In the case of Hoti Lal Sharma, as per the Memorandum of Understanding, the staff who have opted for Jaipur Division and presently working in Agra Divison and whose orders have been issued before 31.03.2003 but could not be relieved due to exigency of work in Section/ or for want of vacancy in Jaipur should be relieved for Jaipur Division as & when position permits in Agra Section and vacancy arises in Jaipur Division without losing their seniority meaning thereby the applicant have to move an application in case any vacancy arises, in that eventuality the case of Shri Hoti Lal Sharma be considered for transfer to Jaipur Divison as he has not opted for Agra Division. Same is the case of Shri Ramphool Meena.

7. Therefore, I deemed it proper to direct the respondents so far as Vijay Singh is concerned, he may be allowed to continue at the present place of posting and as he is going to be retired after a period of three months. The ends of justice will be met if the retrial benefits is granted by the Jaipur Division and accordingly, his service record be send to Jaipur Division for releasing his retrial benefits.



8. With regard to Hoti Lal Sharma and Ramphool Meena are concerned, as discussed hereinabove, as per the Memorandum of Understanding, liberty is given to such employees who have not opted the Agra Division, Jaipur Division is directed to absorb such employees as & when vacancies arises. If the Jaipur Division is not absorbing them even in case of vacancies, then the applicants are at liberty to represent before the respondents to transfer them in Jaipur Division, and if any prejudicial order is passed by respondents, both the applicants are at liberty to file fresh OA.

9. With these observations, all these aforesaid OAs are disposed of with no order as to costs.

(JUSTICE K.S. RATHORE)
MEMBER (J)

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