

**ORDERS OF THE BENCH**

**Date of Order: 06.09.2012**

OA No. 514/2012 with MA No. 255/2012

Mr. Amit Mathur, counsel for applicant.  
Mr. Tanveer Ahmed, counsel for respondents.

Learned counsel for the respondents seeks time to seek instruction regarding transfer order of the applicant. Put up the matter on 13.09.2012. I.R. to continue till the next date.

*responders not filed*

*K. S. Rathore*  
(JUSTICE K.S. RATHORE)  
JUDICIAL MEMBER

Kumawat

13-09-2012

OA No. 514/2012 with M.A. No. 255/2012

Mr. Amit Mathur, Counsel for applicant.  
Mr. Tanveer Ahmed, Counsel for respondents.

Heard.  
O.A. and M.A. are disposed of by a separate order on the separate sheets for the reasons recorded therein.

*K. S. Rathore*  
[Justice K. S. Rathore]  
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 13<sup>th</sup> day of September, 2012

ORIGINAL APPLICATION No.514/2012

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**

Kiran Jyot Singh  
s/o Shri Param Jeet Singh,  
presently working as ECRC,  
Bhawani Mandi, Kota Division,  
Kota r/o Hotal Kiran, Bhawani Mandi Road,  
Jhalarapatan, Distt. Jhalawar (Raj.)

.. Applicant

(By Advocate : Shri Amit Mathur)

Versus

1. Union of India, through General Manager,  
West Central Railway,  
Jabalpur.
2. The Divisional Railway Manager,  
Kota Division,  
Kota.

.....Respondents

(By Advocate : Shri Tanveer Ahmed)

**ORDER (ORAL)**

This is second round of litigation. Earlier the applicant preferred OA No.245/2012. In that OA by way of interim measure, order was passed by this Tribunal to the respondents not to force

the applicant to join at the transferred place. Thereafter the order of transfer was modified on 15.5.2012 and the applicant was directed to join at PRS, Jhalawar under Station Manager, Ramgaj Mandi vide Ann.A/3. On Account of modification of order of transfer, the applicant has withdrawn the OA and the same was dismissed as withdrawn vide order dated 3.7.2012 (Ann.A/4). Immediately after withdrawal of the OA, the respondents again passed fresh order dated 26.7.2012 in continuation of their earlier order passed in the month of January, 2012 again transferring the applicant to Bhopal Division, which action of the respondents was challenged in the earlier OA. Therefore, the applicant has preferred this OA challenging the original order of transfer dated 13.1.2012 (Ann.A/1) and the order dated 26.7.2012 (Ann.A/2).

2. The learned counsel appearing for the applicant placed reliance on the judgments rendered by the CAT-Mumbai Bench in OA No.912/1999, Manoj V.Kumare vs. Union of India and ors. decided on 10.2.2000 and by the CAT-Ernakulam Bench in OA No.234/2001, S.Hariharan vs. Union of India and ors. decided on 12.7.2001.

3. It is not disputed that a memorandum was served upon the applicant on 6.1.2012 under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. In pursuance to the aforesaid memorandum, the applicant was placed under suspension and vide order dated 13.1.2012 transferred from Kota Division to Bhopal Division.



3. On behalf of the respondents, it is contended that the applicant was transferred from Kota Division to Bhopal Division on the recommendation of the Vigilance Department with the approval of the Chief Commercial Manager vide order dated 12.1.2012. In compliance of the order dated 12.1.2012, the order dated 13.1.2012 was issued by which the applicant has been transferred from Kota Division to Bhopal Division. After subsequent development i.e. after passing of the interim order by this Tribunal, in compliance thereof, the applicant was retained at Ramganjmandi vide order dated 15.5.2012 and thereafter on withdrawal of the OA, he has again been transferred vide order dated 26.7.2012 and relieved on 27.7.2012.

4. I am not convinced with the submissions made on behalf of the respondents because of the reason that in view of the interim order of this Tribunal, the respondents themselves considered and modified the transfer order and applicant was directed to give joining at PRS, Jhalawar under Station Manager, Ramganjmandi vide order dated 15.5.2012 but on withdrawal of the earlier OA on account of modification of transfer order, the respondents immediately restored/enforced the original transfer order and the applicant was again transferred to Bhopal Division.

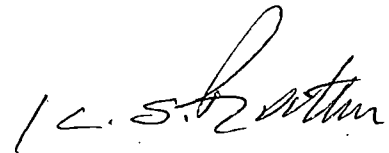
5. Having considered the judgments passed by the CAT-Mumbai Bench and Ernakulam Bench, and in the facts and circumstances of this case, I am of the view that in view of the ratio decided by the CAT-Mumbai Bench and CAT-Ernakulam Bench, the



order impugned dated 13.1.2012 and 26.7.2012 deserve to be quashed and set-aside and the same are accordingly quashed and set-aside. The respondents are directed to restore the modified order dated 15.5.2012 and the applicant be allowed to join at PRS, Jhalawar under Station Manager, Ramganjmandi.

6. With these observations, the OA stands disposed of with no order as to costs.

7. In view of the order passed in the OA, no order is required to be passed in MA No.255/2012, which stands disposed of accordingly.



(JUSTICE K.S.RATHORE)  
Judl. Member

R/