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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

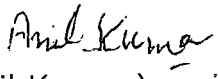
ORDERS OF THE TRIBUNAL

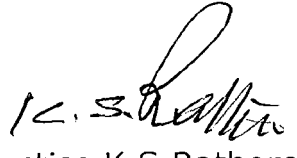
30.11.2012

OA No. 717/2012

Mr. P.P. Mathur, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.

Heard. The OA is disposed of by a separate order.


(Anil Kumar)
Member (A)


(Justice K.S. Rathore)
Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 717/2012

Jaipur, the 30th day of November, 2012

CORAM :

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

Yashwant Kumar Sharma son of Dr. Ramesh Kumar Sharma
aged about 48 years, resident of House No. 1494, Captain
Street, 12th Gangaur Ka Rasta, Johri Bazar, Jaipur. At present
working on the post of Senior Public Relation Officer (HQ)' North
Western Railway, Jaipur.

... Applicant

(By Advocate : Mr. P.P. Mathur)

Versus

1. Union of India through the General Manager, North
Western Railway, Headquarter Office, Near Jawahar Circle,
Jaipur.
2. The Railway Board through its Chairman, Railway Bhawan,
Raisena Road, New Delhi.

... Respondents

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

ORDER (ORAL)

The applicant filed this OA praying for the following
reliefs:-

- “(i) that the respondents may be directed to consider the
name of the applicant for promotion on the post of
Chief Public Relations Officer on adhoc basis till a
regular incumbent from Public relations cadre is
appointed.
- (ii) that in alternative the respondents may be directed
to relieve the applicant from his present post to join
as officer on Special Duty in the Konkan Railway
Corporation Limited in lieu of order dated
31.01.2012.
- (iii) Any other relief which this Hon'ble Tribunal deems fit
in the facts and circumstances of the case may be
granted to the applicant.”

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2. Learned counsel for the applicant submitted that the applicant is presently working on the post of Senior Public Relations Officer (Headquarters), North Western Railway, Jaipur. He further submitted that at present no regular incumbent is working on the post of Chief Public Relation Officers in the North Western Railway and one Shri Lalit Bohra, Deputy General Manager, North Western Railway, is holding the said post on officiating basis as additional charge. Shri Bohra has now been transferred vide order dated 25.09.2012 to join on the post of Senior General Manager, Container Corporation of India on deputation basis. He further submitted that when Mr. Bohra will be relieved in pursuance of order dated 25.09.2012, then the applicant would become senior most on the post of Public Relation Officer in the North Western Railway Office. There is no regular posting as Chief Public Relations Officer in the North Western Railway, Jaipur and there is also no possibility of appointing any such officer by the regular DPC. Therefore, the applicant having experience is the best suitable candidate available in the North Western Railway, Jaipur and should be considered for posting as ad hoc Chief Public Relation Officer till any regular incumbent joins as such. However, he has apprehension that he would be forced to work under an officer from Non Public Relation Officer cadre. The applicant has the experience to work as a JA grade post and therefore, it would be sheer humiliation if he is now forced to work as Chief Public Relations officer.

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3. Learned counsel for the applicant further submitted that he has been selected on the post of Officer on Special Duty in Konkan Railway Corporation Limited (KRCL). This post was notified by the Railway Board and proper consent was granted by the North Western Railway, Jaipur before the applicant appeared before the selection. He has been selected through the due process on deputation basis against the advertised vacancy vide order dated 31.01.2012 (Annexure A/1) but the respondents are not relieving him though nine months have passed. The applicant made representations time and again personally and through the Indian Railways Public Relations Officials Welfare Society. He argued that there is no reason as to why the applicant is not being relieved by the North Western Railway, Jaipur. Learned counsel for the applicant argued that either the respondents may be directed to consider the name of the applicant for promotion on the post of Chief Public Relations Officer on ad hoc basis till a regular incumbent from Public Relations Cadre is appointed or in the alternative the respondents be directed to relieve the applicant from his post to join as Officer on Special Duty in KRCL in view of the order dated 31.01.2012 (Annexure A/1).

4. On the contrary, learned counsel for the respondents argued that the post of Chief Public Relations Officer is filled as per Recruitment Rules issued by the Railway Board. The Recruitment Rules provides for 50 % of the posts to be filled up by promotion from Senior Public Relations Officer with 5 years of regular service in the grade by Group 'A' Officer, failing which by

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transfer on deputation. Further 50% of the posts are filled up by transfer on deputation/transfer. The DPC is comprised of Chairman, Railway Board, Financial Commissioner and 03 other members of Railway Board in consultation with Union Public Service Commission. The post of Sr. PRO on the other hand is filled by promotion from the cadre of Public Relation Officers with 8 years regular service in the grade of Public Relation Office, failing which by transfer on deputation by Railway Board. Moreover, the cadre of Public Relations Officers is an organized small cadre and Railway Board for ensuring promotional avenues, has grouped certain Railways and production units for the purpose. For this purpose, Railway Board has grouped North Western Railway, Western Railway, Rail Coach Factory, Kapurthala and Metro Railway Kolkata in one group and Metro Railway, Kolkata has been designated as the co-ordinating unit. Promotion depends on the availability of vacancy. The applicant has already been promoted by the Controlling Unit i.e. Metro Railway, Kolkata on the post of Sr. PRO against the vacancy provided by the North Western Railway vide order dated 02.02.2012 on ad hoc basis (Annexure A/10). He submitted that as per recruitment rules, 50% posts of Chief PRO are to be filled by promotion from Sr. PRO with 5 years of regular service. He further argued that there is no sanctioned cadre post/element of CPRO on North Western Railway and, therefore, no right accrues to the officers of the cadre of Public Relations to be promoted on the post of CPRO in North Western Railway and further officers of other departments are deputed to function as CPRO in addition to their working on their own cadre post.

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Further, no additional benefits like dual charge, etc. is payable to the officer functioning additionally on the post of CPRO for working on this post. Promotion depends on the availability of vacancy. The applicant has already been promoted by the Controlling unit i.e. Metro Railway Kolkatta on the post of Sr. PRO against the vacancy provided by North Western Railway.

5. The learned counsel for the respondents also drew our attention to Annexure R/1 vide which Shri Tarun Jain, SG/IRTS, on reporting from deputation (CONCOR) on NWR is posted as DGM/G & CPRO/NWR vice Lalit Bohra. Thus the vacancy caused by the transfer of Lalit Bohra has been filled up.

6. Learned counsel for the respondents admitted that the applicant has been selected on the post of Officer on Special Duty in KRCL vide order dated 31.01.2012 (Annexure A/1). He further argued that an officer has no right to be spared on deputation and sparing of an officer on deputation solely depends within the administrative powers of the competent authority, who taking into consideration the administrative exigencies and requirement of work on North Railway, has not spared the applicant on deputation to KRCL. To support his averments, he referred the judgment of the Hon'ble Supreme Court in the case of **Mahesh Kumar K. Parmar vs. S.I.G. of Police**, 2002 (9) SCC 485, at page 486:

"Having considered the rival submissions and also the relevant provisions of the Rules, we do not see any enforceable right with the petitioners for being permanently absorbed though we see sufficient force in the contention of Dr. Dhavan that the appropriate Government would be well advised to consider the

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retention of these petitioners permanently in the Bureau having regard to the case that they have already rendered services from 1991 till 1999, and that the Rules themselves contemplate to main the post on transfer. While, therefore, we are unable to issue any mandamus to the State Government requiring them to permanently absorb these petitioners in the Bureau, we would observe that the State Government may consider the case of these petitioners for absorption on transfer in according with the Rules, if they are found otherwise suitable. In that case the administration would be better served on account of experience the petitioners have already got in the Bureau by serving for eight years."

Therefore, in the facts and circumstances of the present case and keeping the legal position, as stated above, the present OA has no force and it deserves to be dismissed with costs.

7. Heard the rival submissions of the parties, perused the documents on record and carefully perused the judgment of the Hon'ble Supreme Court in the case of **Mahesh Kumar K. Parmar vs. S.I.G. of Police**, 2002 (9) SCC 485. It is admitted between the parties that the post of Officer on Special Duty was advertised by the Railway Board to be filled up by selection on deputation. The applicant applied for the post through the proper channel. His application was duly forwarded by the respondents. He was selected vide order dated 31.01.2012 (Annexure A/1). 9 months have passed but he has not been relieved so far to join his duty on the post of Officer on Special Duty to KRCL. Learned counsel for the respondents argued that the applicant has no legal enforceable right to be relieved to join as Officer on Special Duty. Sparing of an officer on deputation solely depends within the administrative powers of the competent authority, who take decision taking into consideration the administrative exigency. Due to requirement of work of North Western Railway,

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respondents have not spared the applicant on deputation to KRCR. To support his averment, the learned counsel for the respondents referred to the judgment of the Hon'ble Supreme Court in the case of **Mahesh Kumar K. Parmar vs. S.I.G. of Police**, 2002 (9) SCC 485. In this case, the question was of permanent absorption who were on deputation. Therefore, the Hon'ble Supreme Court observed that Hon'ble Supreme Court was unable to issue any mandamus to the State Government requiring the applicant/petitioner to be permanently absorbed in the Bureau but still observed that State Government may consider the case of those petitioners for absorption on transfer in accordance with the rules, if they are found otherwise suitable. The Hon'ble Supreme Court further observed that administration would be better served on account of experience the petitioners have already got in the Bureau by serving for eight years. Thus in this case though no mandamus was issued by the Hon'ble Supreme Court to the State Government but the State Government was required to consider the case of the petitioners for absorption on transfer in accordance with the rules, in the interest of the administration.

8. In the present case, it is not disputed that the applicant applied for the post of Officer on Special Duty at KRCR through proper channel. His application was duly forwarded by the respondents. He was found fit to hold that post and was duly selected on the presumption that in case he is selected he would be relieved by his parent department since his application has been duly forwarded by them. Nine months have already

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passed. If he is not relieved then Railway Board has to again advertise the post of Officer on Special Duty which will again take a long time to fill up and the work in KRCL would suffer. If there were any administrative exigency and requirement of work in the North Western Railway, then the application of the applicant in the first phase should not be forwarded and the applicant should have been informed accordingly. Once the respondents have forwarded the application of the applicant and he has been duly selected, normally he should be relieved unless there are very pressing reasons. The learned counsel for the respondents could not explain any pressing reasons for which the applicant was not relieved by the respondents to join his new place of posting especially when his application was duly forwarded by the respondents. Though the applicant may not have any legal enforceable right to be relieved but in the interest of natural justice and in the interest of work in the KRCL, we deemed it proper to direct the respondents to relieve the applicant to join as Officer on Special Duty to KRCL in pursuance of his selection vide order dated 31.01.2012 (Annexure A/1) within a period of one month from the date of receipt of a copy of this order.

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

Anil Kumar
(Anil Kumar)
Member (A)

AHQ

J. S. Rathore
(Justice K.S.Rathore)
Member (J)