

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER OF THE TRIBUNAL

Date of order : 21.4.2014

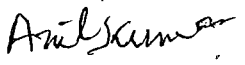
OA No.220/2013

Applicant present in person.

Mr. D.K.Pathak, counsel for respondents.

Heard the applicant present and counsel for the respondents.

O.A. is disposed of by a separate order on separate sheets for the reason recorded therein.


(Anil Kumar)
Member (A)

ADM/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 220/2013

DATE OF ORDER : 21.04.2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

AKhilendra Kumar Singh son of Shri Chitra Dev Singh, aged about 43 years, resident of 2/57, Housing Board Colony, Nasirabad, District Ajmer. Presently posted as Head Booking Clerk, Ajmer Division under transfer to Bikaner Division.

... Applicant

(Applicant present in person).

Versus

1. Union of India through General Manager, North Western Railway, Headquarters Office, Near Jawahar Circle, Jaipur.
2. The Senior Divisional Commercial Manager, North Western Railway, Ajmer, Rajasthan.
3. The Senior Divisional Commercial Manager, North Western Railway, Bikaner.

... Respondents

(By Advocate: Mr. D.K. Pathak)

ORDER (ORAL)

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

- "1. That the Hon'ble Tribunal be pleased to direct the respondent no. 2 to pass relieving memo with photo identity to the applicant and the respondent no. 3 be further directed to allow the applicant to join and discharge his duties on the post of Head Booking Clerk.
2. That the respondent be further directed to regularize the period from 21.09.2012 till his joining and the respondent be further directed to pay salary to the applicant with all consequential benefits.
3. Any other order or direction, which the court deem fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant.

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4. That the cost of the application be quantified to the applicant.

2. The brief facts, as stated by the applicant, are that he was transferred from Ajmer Division to Bikaner Division vide order dated 18.10.2011.

3. Vide order dated 17.04.2012, Station Manager, Abu Road issued the relieving order of the applicant (Annexure A/2).

4. That the applicant was not relieved, as such he preferred an OA No. 02/2013 before this Tribunal. On 03.01.2013, this Tribunal directed the Divisional Office, Ajmer to issue relieving order with all formalities which are essential including the salary etc. expeditiously (Annexure A/3).

5. That the applicant immediately contacted the office of respondent no. 2 and submitted a representation with a copy of the order of the CAT, Jaipur Bench, Jaipur.

6. That the respondent no. 2 vide its letter dated 22.01.2013 directed the applicant to join at Bikaner Division (Annexure A/4).

7. That the applicant reported for duty at Bikaner on 24.01.2013. That on the same date i.e. 24.01.2013, a letter was issued to respondent no. 2 by respondent no. 3 with a noting that the applicant has reported for resumption on transfer to Bikaner Division without photo identity and without being relieved from the

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Personnel Department. Therefore, it was requested that the employee may be relieved through proper channel (Annexure A/6).

8. That the action of the respondent no. 2 in not relieving the applicant from the Personnel Department is a deliberate action in order to harass the applicant in one way or the other.

9. That thereafter the applicant served a representation to respondent no. 2 for his proper relieving on 25.01.2013 and 28.01.2013. That the applicant personally visited the office of respondent no. 2 for his relieving but no action was taken by respondent no. 2.

10. The applicant submitted that he is aggrieved by the inaction of the respondent no. 2 who has not relieved him so far though he is running from pillar to post. He is not getting his salary and thus facing acute financial hardship. His period has also not been regularized. Therefore, the applicant argued that proper directions be given to respondent no. 2 to relieve him as per rules and also to regularize his services till he is relieved and his salary be paid till that date by the office of respondent no. 2.

11. The respondents have filed their reply.

12. The learned counsel for the respondents submitted that the applicant was transferred vide order dated 18.10.2011 but he is not complying with the transfer order with malafide and deliberate

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intention. Therefore, the applicant may be directed to immediately join at Bikaner Division within a specified time frame and the OA being devoid of merit be dismissed.

13. He further submitted that the applicant initially challenged the transfer order before this Tribunal which was finally dismissed on 28.02.2012. Being aggrieved by the order of the Tribunal, the applicant preferred a Writ Petition before the Hon'ble High Court but the same was also dismissed on 13.04.2012.

14. During this period, the applicant himself remained either on leave or failed to present himself before answering respondent no. 2 even after issuing notice for personal appearance.

15. The applicant was on commuted leave from 02.03.2012 to 15.04.2012 and joined on 16.04.2012. Thereafter he was relieved vide order dated 17.04.2012.

16. The applicant remained absent from duty since 17.04.2012. The applicant deliberately failed to present himself before respondent no. 2 in getting himself relieved. Therefore, the applicant is not entitled for the salary benefits for the said period.

17. That the applicant directly approached the answering respondent no. 3 without getting relieved through proper channel and, therefore, the applicant was not allowed to join at Bikaner.

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18. That the answering respondent no.2 is ready to relieve the applicant with all formalities but the applicant will have to complete certain formalities before answering respondent no. 2. In the absence of his presence, the applicant cannot be relieved from Ajmer Division. The applicant may be directed to report before respondent no. 2 and to complete necessary formalities.

19. The applicant has filed a rejoinder.

20. Heard the rival submissions of the parties and perused the documents on record. From the perusal of the record, it is clear that the applicant was transferred from Ajmer Division to Bikaner Division vide order dated 18.10.2011. Being aggrieved by that transfer order, he filed an OA before this Tribunal, which was dismissed. His Writ Petition against the order of the Tribunal was also dismissed by the Hon'ble High Court. Thereafter, the applicant with a letter of respondent no. 3 dated 22.01.2013 reported before respondent no. 3 at Bikaner. The respondent no. 3 vide his letter dated 24.01.2013 (Annexure A/6) asked the respondent no. 2 to relieve the applicant through Personnel Department and sent himself to respondent no.3 through proper channel. Thereafter the matter has struck up. The claim of the applicant is that the respondent no.2 in order to harass him is not relieving him in spite of his best efforts and on the other hand, the respondents have submitted that the applicant is not presenting himself before respondent no.2 to be relieved after completing all necessary

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formalities as he is trying to avoid the implementation of his transfer order dated 18.10.2011.

21. Therefore, at this stage, I direct the applicant to present himself before respondent no. 2 on 28.04.2013 at 11.00 AM. He is further directed that he would co-operate and assist the respondent no. 2 in completing the necessary formalities for his relieve and thereafter the respondent no. 2 is directed to issue relieving order according to the rules prescribed on the subject and direct the applicant to report before respondent no.3 at Bikaner within seven days from the date of completion of all formalities by the applicant. The respondent no. 3 is directed to allow joining of the applicant at Bikaner Division once he is duly relieved by respondent no. 2.

22. After relieving formalities are completed, the respondent no. 2 shall also consider and finalize the period of absence of the applicant from the date of his transfer to the date of relieve from the office of respondent no. 2 and shall make necessary payment or authorize the payment as due to the applicant according to the rules within a period of two months from the date of relieve. However, it is made clear that the applicant would join at Bikaner on his being relieved from Ajmer without waiting for the decision of respondent no. 2 about the finalization of the period of absence of the applicant.

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23. With these directions, the OA is disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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