

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**CHANDIGARH BENCH**

...

OA No.060/00956/2014

**Date of decision:** 6.4.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**  
**HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

Narottam Das S/o late Shri Fateh Chand R/o House no.1-C, Officers  
Railway Colony, Rail Coach Factory, Kapurthala.

**...Applicant**

**BY ADVOCATE :** Shri Arun Takhi

**VERSUS**

1. Union of India through its Secretary, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi-110001.
2. The Chairman Railway Board, Ministry of Railways, Rail Bhawan, New Delhi-110001.
3. General Manager, Rail Coach Factory, Hussainpur, District Kapurthala-144602.

**...RESPONDENTS**

**BY ADVOCATE:** Sh. Lakhinder Bir Singh

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**ORDER**

**Mr. Sanjeev Kaushik, Member (J):**

Challenge is to an order dated 29.08.2014 (Annexure A-1) passed by respondent no.3 thereby withdrawing all cases and matters relating to Selections/Tender Committees and Arbitrations etc. from applicant and further nominating Shri P.K. Gupta, CEE to deal with all these cases and matters, in addition to his own duties.

2. The facts, which led to filing of the present Original Application, are that the applicant initially joined the respondent-Railways as Group-A officer in the Indian Railway Service of Electrical Engineers as Junior Scale Electrical Officer on 03.11.1979. Based upon his performance he earned various promotions. In the month of July, 2012 he was given functional higher administrative grade, which is equivalent to Additional Secretary to Government of India. Presently he is working as Chief Electrical Engineer (HAG) and posted at Rail Coach Factory, Kapurthala. It is the case of the applicant that on the basis of his performance and appraisal he earned various promotions and was also empanelled for the post of Divisional Railway Manager and was posted at such at Hyderabad. To his surprise he received the impugned order issued by respondent no.3 on 29.08.2014, withdrawing all cases and matters relating to Selections/Tender Committees and Arbitrations etc. and was given to Shri P.K. Gupta. Against the above action the applicant represented to respondent no.3 on 05.09.2014, requesting him to review the impugned

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order dated 29.08.2014. He was informed by respondent no.3 that since the order has been passed in compliance of Railway Board's instructions, therefore, the same cannot be reviewed at his level. Then he moved another representation on 12.09.2014 to respondent no.1 to withdraw the impugned order dated 29.08.2014 but to no avail. Hence the Original Application.

3. The applicant has attacked the impugned order on four counts, firstly that the impugned order is cryptic and non-speaking; secondly the impugned order, which has civil consequences has been passed without complying with the principles of natural justice; thirdly that the officer who has passed the order is not having the jurisdiction to pass such order under the relevant rules; and fourthly that the impugned order is in violation of para 322.11 of Indian Railway Vigilance Manual (IRVM, for short). Thus the impugned order be set aside.

4. In support of the above contention Shri Arun Takhi vehemently argued that the impugned order has been passed only to frustrate the right of the applicant, as he is due for promotion. To elaborate his argument he submitted that the impugned order does not talk of any reason, therefore, the same be set aside being outcome of arbitrariness. He submitted that the impugned order is also in violation of para 322.11 of IRVM, thus the order be set aside. Lastly, he submitted that withdrawal of work from applicant amounts to suspension and stigma. To buttress his submission he placed reliance upon the judgments reported as 2013 (2) PLR 319,

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George v. State of Punjab, 2005 All. LJ 2817, Prem Kumar Joshi v. State of U.P. (Allahabad) (D.B.), 1996 (4) SCT 61, Baljeet Singh Mahal v. State of Punjab (P&H), and 2005 (8) SLR 809, Dr. K.K. Arora v. Union of India (Delhi).

5. The respondents contested the claim of the applicant by filing a detailed written statement wherein they have tried to justify the impugned order by saying that since the name of the applicant had already been included in the "agreed list" or "secret list", therefore, the impugned order has been passed. In support of this, Shri Lakhinder Bir Singh, learned counsel appearing on behalf of the respondents argued that once the name of the applicant had been included in the agreed/secret list, therefore, the respondents in terms of para 322.11 of IRVM could withdraw the work from the concerned officer. Since his name has already been included in the agreed/secret list, therefore, the impugned order has been passed. He submitted that the respondent no.3 has only communicated the order as the same has been passed by the Railway Board.

6. We have given our thoughtful consideration to the entire matter and have perused the pleadings available on record with the able assistance of the learned counsel appearing for the respective parties.

7. The sole question that arises for our consideration is whether the impugned order, withdrawing the work from the applicant on the plea that

his name has been included in the agreed/secret list is in consonance with para 322.11 of the IRVM or not?

8. For better appreciation of the controversy para 322.11 of the IRVM reads as under:

"322.11 One of the administrative actions required to be taken in case of Agreed List/Secret List borne officers is transfer from sensitive posts. For this purpose, all posts of Head of Departments and posts as per list enclosed in Annexure III/11 are to be considered as "Sensitive". This list is not exhaustive and General Managers on their own may also treat any other post not mentioned in the list as "Sensitive" and inform Railway Board Vigilance. Officers borne on Agreed/Secret List should not be posted to these sensitive posts and in the event of an officer included in these lists holding such a position, his immediate transfer should be arranged. However, where inescapable, the following conditionality should apply:

(a) Officers borne on Agreed/Secret List should not be nominated on any Selection/Screening Board/Committee, Tender Committee or as Arbitrators or Inquiry Officers.

(b) Such officers should not deal with important financial matters where there is scope for improper exercise of discretion. Such cases can either be dealt with by the next higher authority himself or marked to some other officer in the equivalent grade, but not borne on Agreed/Secret List. They can, however, be permitted to deal with financial matters of small value subject to test check by the next higher authority to the extent possible."

9. Perusal of the above makes it clear that respondents are empowered to pass any order, as reflected above, if an officer's name is included in the agreed/secret list. Concededly, in the case of applicant the respondents decided to bring his name on the agreed/secret list in the joint meeting of the CBI/Vigilance on 24.09.2014, which actually reflected in the list of 21.10.2014 whereas in anticipation the respondents have

passed the impugned order dated 29.08.2014 withdrawing all cases and matters relating to Selections/Tender Committees and Arbitrations etc. from him in terms of para 322.11 of IRVM.

10. Learned counsel representing the respondents failed to point out any provision under the Railway Manual or any instructions to the effect that even in anticipation, they can withdraw any work from an employee whose name is to be brought on the agreed/secret list.

11. Considering the above factual position, we are left with no option but to quash and set aside the impugned order dated 29.08.2014 (Annexure A-1), as having been passed in contravention of para 322.11 of IRVM. We order accordingly. The OA stands allowed in the aforesaid terms.

12. No costs.

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**(UDAY KUMAR VARMA)**  
**MEMBER (A)**

**Place: Chandigarh**

**Dated:** 6.4.2015

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