

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 234/94

Date of Order: This the 14th Day of February 1995.

Justice M.G. Chaudhari, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

Shri Lakhan Kurmi

Store Watch man,  
ICW/Line/Lumding, resident of  
C/O. Mana Dey,

..... Applicant.

By Advocate Mr. A.K. Roy.

-Versus-

1. Union of India represented by General Manager,  
N.F. Railway, Maligaon, Guwahati-781011.

2. Sr. DEN, N.F. Railway, Lumding

3. Assistant Engineer -1  
Lumding, N.F. Railway  
District-Nagaon (Assam)

4. Shri Subal Choudhury,  
SWM/FWI/N.F. Railway, Hojai,  
District-Nagaon.

..... Respondents.

By Advocate Mr. B.K. Sharma.

ORDER

CHAUDHARI J(V.C.)

Mr. A.K. Roy for the applicant.

Mr. B.K. Sharma for the respondents on notice.

1. On 2-7-94 the applicant applied to the respondents for transfer to LMG on ground of personal convenience from Hojai where he was working. In pursuance of that request order dated 20-7-94 was passed by AEN/I/LMG transferring and posting him under ICW/LINE/LMG as SWM in his same pay and scale at his own request. By order dated 17-9-94 he

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was posted under ICW/N/LMG as SWM in same pay and scale against then existing vacancy. The applicant represented against that order praying that he may be allowed to remain under ICW/L/LMG where he was working till the new posting. He sought review of the order of transfer by further appeal dated 28-9-94. Thereafter he filed the present application on 9-12-94. He prays that the order of transfer dated 17-9-94 may be quashed and the respondents may be directed not to disturb his earlier posting under ICW/LINE/LMG and to maintain his seniority position as was fixed at Hojai.

2. In pursuance of notice issued by us to show cause Mr. B. K. Sharma appears for the respondents and submits the parawise remarks of the respondents. In this reply it has been stated by the respondents in clear terms that the transfer of the applicant by order dated 17-9-94 does not involve any loss of seniority of the applicant. It is also stated that it does not involve loss of future chances of promotion and these will not be adversely affected. Mr. B. K. Sharma the learned Railway counsel for the respondents repeats those statements before us on behalf of the respondents. With these statements the apprehension of the applicant that he is likely to lose his seniority by his posting under ICW/N/LMG by order dated 17-9-94 stands completely removed.

✓ 3. It is contended by the applicant that he would<sup>be</sup> entitled to his seniority as was fixed at Hojai office. However that cannot be considered as he has been transferred at his own request and consequently as per the rules he has to accept bottom seniority on transfer to LMG under ICW/Line/LMG as SWM where he was transferred by order dated 20-7-94. The statement made on behalf of the respondents does not affect

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that seniority although he has been posted by order dated 17-9-94 under IOW/N/LMG.

4. It is the further contention of the applicant that although he had voluntarily applied for transfer to LMG he had purported to withdraw that request by his application dated 14-7-94 and consequently his transfer to LMG was not correct and therefore he is entitled to retain the original seniority as fixed at Hojai office. In that connection it is contended by the learned counsel for the respondents that the applicant has no right to compel the respondents to accept the application for withdrawal of request for voluntarily transfer and therefore, the applicant now cannot make any grievance particularly as he has accepted the transfer and had joined duty under IOW/Line/MLG. It is difficult to overrule this submission having regard to the circumstance that the applicant had voluntarily requested for transfer and had accepted that transfer. Moreover, it is pertinent to note that in his appeal dated 20-9-94 he stated after mentioning that he applied for transfer as SWM under IOW/L/LMG that before the issuance of the order he had already intimated his unwillingness for the transfer but that without considering the appeal he was transferred and he has carried out the order and joined his post at LMG. The applicant did not seek re-transfer to Hojai ~~on or~~ claim that despite the transfer his original seniority should be maintained. The applicant therefore has to accept the situation that his transfer to LMG has become effective for all purposes and the assurance that his seniority will not be affected nor his chances of future promotion would be adversely affected will be only on the basis of the seniority which he will get on his transfer

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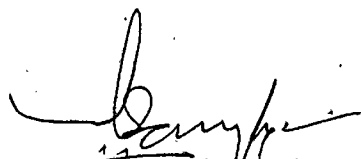
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to LMG. Hence no relief can be granted to him as prayed in para 8 (iii) of the application. It is needless to say that the statements made on behalf of the respondents which we have recorded above would be binding upon the respondents.

5. We make it clear that we are not concerned in this order with the question as to whether the applicant can apply for re-transfer to Hojai and seek old seniority.

In the result, subject to what is stated above, the application stands disposed of.

No order as to costs.



(G.L. SANGLYINE)  
MEMBER (ADMINISTRATIVE)



(M. G. CHAUDHARI)  
VICE-CHAIRMAN

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