

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

**ORIGINAL APPLICATION NO.290/00201/2016
WITH MISC. APPLICATION NO.290/00209/17**

JODHPUR, THIS THE 10TH DAY OF MAY,

2018

CORAM:

**HON'BLE MR. R.RAMANUJAM, MEMBER (A)
HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)**

**M.K. PANCHARIA S/O KANHIYALAL, AGED ABOUT 54 YEARS, R/O
KUMARIYA KUWA, KUMARRON KI GALI, KHANDA FALSA, JODHPUR, AT
PRESENT EMPLOYED ON THE POST OF CHIEF CONTROLLER (STOCK) IN
OPERATING BRANCH, DRM OFFICE, JODHPUR, NWR.**

...APPLICANT

(BY ADVOCATE: SHRI J.K. MISHRA)

VERSUS

- 1. UNION OF INDIA THROUGH THE GENERAL MANAGER, HQ OFFICE,
NORTH-WESTERN RAILWAY, MALVIYA NAGAR NEAR JAWAHAR CIRCLE,
JAIPUR-17.**
- 2. SENIOR DIVISIONAL PERSONNEL OFFICER, NWR, JODHPUR DIVISION,
JODHPUR.**
- 3. SENIOR DIVISIONAL OPERATING MANAGER, NWR, JODHPUR DIVISION,
JODHPUR.**
- 4. CHIEF CONTROLLER-IN-CHARGE, OPERATING B RANCH, DRM OFFICE,
JODHPUR, NWR.**

...RESPONDENTS

(BY ADVOCATE: MR. SALIL TRIVEDI)

ORDER (ORAL)

PER HON'BLE MR. R. RAMANUJAM, MEMBER (A)

HEARD BOTH SIDES.

2. THE APPLICANT HAS FILED THIS OA SEEKING THE FOLLOWING RELIEFS:-

“(I) THAT IMPUGNED ORDER/ DUTY ROSTER DATED 21.02.2016-05.03.2016 (ANNEXURE-A/1) AND ANY SUBSEQUENT DUTY ROSTERS, FOR POSTING THE APPLICANT ON CHC/MOVEMENT/ OPERATING WORK, MAY BE DECLARED ILLEGAL AND THE SAME MAY BE QUASHED AND ALLOW THE APPLICANT TO PERFORM HIS DUTIES ON THE POST OF CHC/ STOCKS AS PER THE ORDER OF HIS ABSORPTION DATED 14.03.2014 (A/5), ISSUED AFTER HIS DECATEGORISATION.

(II) THAT ANY OTHER DIRECTION, OR ORDERS MAY BE PASSED IN FAVOUR OF THE APPLICANT WHICH MAY BE DEEMED JUST AND PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THIS CASE IN THE INTEREST OF JUSTICE.

(III) THAT THE COSTS OF THIS APPLICATION MAY BE AWARDED.”

3. IT IS SUBMITTED THAT THE APPLICANT WAS WORKING AS A SECTION CONTROLLER WHICH JOB REQUIRED HIM TO SPEAK LOUDLY AND CONTINUOUSLY. HOWEVER, BECAUSE OF A THYROID PROBLEM HE WAS MEDICALLY EXAMINED AND THEREAFTER DECATEGORISED TO HOLD THE SAID POST. HE WAS APPOINTED ON A SUPERNUMERARY POST OF A LOWER STATUS COMPARED TO THAT OF SECTION CONTROLLER, WHICH WAS CHALLENGED. THEREAFTER, FOLLOWING THE DIRECTIONS OF THE TRIBUNAL IN OA NO.230/2011, THE APPLICANT WAS APPOINTED AS CHIEF CONTROLLER (STOCK) ON 24.08.2011. THE JOBS CLASSIFICATION OF CHIEF CONTROLLER (STOCK) DID NOT REQUIRE HIM TO SPEAK LOUDLY. HOWEVER, NOW THROUGH THE IMPUGNED DUTY ROSTER REGISTER THE RESPONDENTS HAVE ASSIGNED HIM THE DUTY OF CHIEF CONTROLLER (MOVEMENT) WHICH REQUIRES HIM TO SPEAK LOUDLY. AGGRIEVED BY THE SAID DUTY ROSTER REGISTER, THE APPLICANT IS BEFORE US.

4. LEARNED COUNSEL FOR THE APPLICANT WOULD DRAW ATTENTION TO CHAPTER 7 OF THE OPERATING MANUAL FOR INDIAN RAILWAY (ANNEXURE-A/2) WHEREIN THE DUTIES OF CHIEF CONTROLLER (MOVEMENT) HAVE BEEN SPECIFIED AS UNDER:-

“8 (1) (B) CHIEF CONTROLLER (MOVEMENT)/ DY. CHIEF CONTROLLER/ SHIFT DUTY: HE IS RESPONSIBLE FOR:

(I) RUNNING OF GOODS TRAINS, PREPARING INTERCHANGE FORECAST, AND MONITORING THE SAME, LOCO UTILISATION AND PASSENGER AND GOODS TRAIN OPERATIONS IN GENERAL.

(II) ALLOTING EMPTY STOCK/ RAKES TO LOADING STATIONS IN ACCORDANCE WITH CURRENT PRIORITY REGULATIONS ALONG WITH DY. CHIEF CONTROLLER (STOCK), MAINTAINING CONSTANT TOUCH WITH ADJACENT DIVISIONS THROUGH REGULAR CONFERENCE TO FACILITATE THE SMOOTH FLOW OF TRAFFIC.

(III) DEALING IMMEDIATELY WITH SIGNIFICANT DETENTIONS OR TRANSPORT BOTTLENECKS AND OTHER UNUSUAL.

(IV) KEEPING CONSTANT TOUCH WITH THE WORKING OF MAJOR

TERMINALS AND MARSHALLING YARDS AND TAKING TIMELY ACTION TO DEAL WITH CONGESTION.

(V) GIVING ADVICE OF SERIOUS ACCIDENTS TO ALL CONCERNED, AND TAKING, CHARGE OF THE AFFECTED SECTIONS.

(VI) SUPERVISING THE RUNNING OF OVERSIZED CONSIGNMENTS.

(VII) MAINTAINING LIAISON WITH THE POWER CONTROLLERS.

(VIII) CO-ORDINATE THE WORK OF VARIOUS SECTION CONTROLLERS.

(IX) MAINTAIN DISCIPLINE AMONG CONTROL STAFF IN THE ABSENCE OF CHIEF CONTROLLER.

(X) MAINTAIN CO-ORDINATION AND LIAISON WITH VARIOUS FUNCTIONARIES INVOLVED IN TRAIN RUNNING.”

IT IS CONTENDED THAT THE AFORESAID FUNCTIONS REQUIRED THE APPLICANT TO SPEAK LOUDLY WHICH HE WAS UNABLE TO. IT IS SUBMITTED THAT THE APPLICANT COULD NOT BE POSTED TO A JOB FOR WHICH HE WAS MEDICALLY DECATEGORIZED.

5. LEARNED COUNSEL FOR THE RESPONDENTS, ON THE OTHER HAND WOULD SUBMIT THAT FOLLOWING THE DIRECTION OF THIS TRIBUNAL IN OA NO.230/2011 AND BY ANNEXURE-A/5 ORDER DATED 14.03.2014, IT WAS CONVEYED AFTER DUE MEDICAL EXAMINATION THAT THE APPLICANT WAS SUITABLE FOR CHC/ STOCK, RUNNING AND INCHARGE IN G.P.4600/- AND HE SHOULD NOT BE POSTED ON SECTIONAL BOARDS. THE APPLICANT WAS WORKING AS CHIEF CONTROLLER (STOCK) OVER SIX YEARS. ATTENTION IS DRAWN TO PARA 4.3 OF MASTER CIRCULAR NO.24 REGARDING TRANSFER OF NON-GAZETTED RAILWAYS SERVANTS, WHICH READS AS UNDER:-

“4.3 (I) RAILWAY SERVANTS HOLDING SENSITIVE POSTS AND WHO COME INTO CONTACT WITH PUBLIC OR/ AND CONTRACTORS/ SUPPLIERS ECT. SHOULD BE TRANSFERRED OUT OF THEIR EXISTING POST/ SEAT OR STATION AS THE CASE MAY BE, AFTER A VERY FOUR YEARS.”

IT IS ACCORDINGLY SUBMITTED THAT SINCE THE APPLICANT WAS SERVING ON A SENSITIVE POST FOR MORE THAN SIX YEARS, THE IMPUGNED CHANGE IN DUTY ROSTER HAD BECOME ABSOLUTELY NECESSARY. LEARNED COUNSEL FOR THE RESPONDENTS WOULD ASSERT THAT THE FUNCTION ASSIGNED TO CHIEF CONTROLLER (MOVEMENT) DID NOT REQUIRE TO SPEAK LOUDLY.

6. WE HAVE CONSIDERED THE MATTER. IT IS NOT IN DISPUTE THAT FOLLOWING THE DIRECTIONS OF THIS TRIBUNAL IN OA NO.230/2011, THE APPLICANT'S CASE WAS CONSIDERED BY THE SCREENING COMMITTEE WHICH RECOMMENDED HIM SUITABLE FOR CHC/ STOCK, RUNNING AND INCHARGE IN G.P.4600/- AND THAT HE SHOULD NOT BE POSTED ON SECTIONAL BOARDS. CLEARLY, THE DUTY ASSIGNED TO THE APPLICANT IS THAT OF CHIEF CONTROLLER (MOVEMENT) WHICH IS NOT A SECTIONAL BOARD POST. AS THE RESPONDENTS WOULD CATEGORICALLY ASSERT THAT THE JOB SPECIFICATION OF CHIEF CONTROLLER (MOVEMENT) DID NOT REQUIRE THE OFFICIAL TO SPEAK LOUDLY, WE DO NOT SEE ANY SCOPE FOR INTERFERENCE IN THE IMPUGNED ROSTER DUTY.

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7. OA IS THUS DISMISSED. MA NO.209/2017 STANDS DISPOSED OF IN THE LIGHT OF THIS ORDER. NO COSTS.

**[SURESH KUMAR MONGA]
[R.RAMANUJAM]
MEMBER (J)
MEMBER (A)**

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