

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 4629/2014

This the 17th day of September, 2019

**Hon'ble Sh. Pradeep Kumar, Member (A)
Hon'ble Sh. Ashish Kalia, Member (J)**

Kuldeep Kumar, aged 52 years,
S/o Sh. Gyan Chand Sharma,
Working as Chowkidar, at Northern Railway
Station, Hapur (UP)
R/o T-SB, South Railway Colony, Hapur (UP).

... Applicant

(By Advocate: Sh. Yogesh Sharma)

VERSUS

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Muradabad Division,
Muradabad.
3. The Chief Divisional Engineer,
Northern Railway, Muradabad Division,
Muradabad.

... Respondents

(By Advocate: Sh. Kripa Shankar Prasad)

ORDER (ORAL)

Hon'ble Sh. Ashish Kalia, Member (J):

In this present OA, the applicant has sought
following reliefs:-

*“(i) That the Hon'ble Tribunal may graciously be
pleased to pass an order of quashing the impugned
order dt. 30.10.2014 (Annex.A/1) declaring to the*

effect that the same is illegal, arbitrary, discriminatory and against the principle of natural justice and therefore, the applicant is entitled to work on the post of Chowkidar as per the order dt. 16.9.2013 with all consequential benefits.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation."

2. The applicant was initially enrolled in Indian Army in the year 1983. Thereafter, he joined Northern Railway on 25.02.2011 as Trackman and was posted as Gateman under Assistant Divisional Engineer, Hapur. Trackman and Gateman are one cadre and they are interchangeable.

It is submitted that there is no provision of transfer for Class IV Railway Servants from one department to another or from one post to another. The Railway Board vide its circular dated 18.07.1966 delegated the power of transfer of Class IV Railway Servants (Peon, Gangman, Khallasi, unskilled and semi-skilled etc.) from one department to another or from one division to another to Divisional Railway Manager without consulting the head of department.

On 26.06.2013, while working as Gateman, the applicant made a request for his posting as Chowkidar

against a clear vacant post under the same authority, i.e., Assistant Divisional Engineer, Hapur.

It is further stated that the applicant made a request within the Rules and this request was acceded by the Competent Authority. However, subsequently vide impugned order dated 30.10.2014, the applicant's request for posting as Chowkidar has been cancelled by Divisional Engineer, Moradabad (Respondent No. 3) and he was posted back to his original cadre, i.e., Trackman. It was pleaded that Divisional Engineer, is not competent to issue such an order.

3. Feeling aggrieved by the action of respondents, the applicant approached the Tribunal for redressal of his grievance.

4. Notices were issued to respondents. Reply has been filed by them. They submitted that the post of Chowkidar in the office of Assistant Divisional Engineer, Northern Railway is preferably filled from amongst Medically-decategorized staff, in Medical Category C1, C2 and below. The applicant was posted as Trackman which is a safety category post and has a higher medical classification and he was posted as office-chowkidar erroneously on

20.09.2013. Thus, his posting was cancelled and he was posted back to his parent cadre of Trackman.

Thereafter, as per his request, he was posted as Gateman.

5. The applicant pleaded that cancellation order was passed by Divisional Engineer, Moradabad who is not a competent authority and there is no sanctity of such an order in the eyes of law. However, he has submitted at the bar that he has not suffered any financial loss by posting back to his parent cadre.

6. Matter has been heard. We find that the contention raised by the learned counsel for respondents that his posting to the post of Chowkidar is more or less administrative in nature and it is generally given to the medially de-categorised employee.

Contrary to that, learned counsel for applicant submitted at the bar that there is no such hindrance for posting the Trackman as Chowkidar, when particular vacancy is there.

7. We are of the view that this is an administrative decision taken by the Competent Authority which cannot be questioned by this Tribunal.

However, in the interest of justice, we are of the view that in case the applicant makes a detailed representation for posting him as Chowkidar, within a period of one month, the Department may consider his case for posting him as Chowkidar, keeping all safety standard and exigencies in mind. Respondents are directed to decide the aforesaid representation, if made, within 90 days from the date of receipt of the same.

8. This OA is disposed of with these directions. No order as to costs.

(Ashish Kalia)
Member (J)

/akshaya/

(Pradeep Kumar)
Member (A)