

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 1665/2022

Mahesh Singh Naruka Son Of Shri Amar Singh

-----Petitioner

Versus

Union Of India

-----Respondent

Connected With

D.B. Civil Writ Petition No. 1588/2022

Union Of India

-----Petitioner

Versus

Sunita Jangid & Ors.

-----Respondents

For Petitioner(s)	:	Mr. Mahesh Singh Naruka, Divisional Commercial Inspector (present in person)
For Respondent(s)	:	Mr. Anil Tiwari, Chief Law Assistant, North Western Railway Ms. Sunita Jangid, Chief Goods Clerk, CGT-ICDK (Kanakpura) (both are present in person)

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

20/03/2023

Matter comes up on miscellaneous second stay application No.3713/2023 filed on behalf of the petitioner for staying the effect and operation of the order dated 21.02.2023.

Mr. Mahesh Singh Naruka – petitioner is personally present in the Court today and submits that impugned order dated 21.02.2023 has been passed by the respondent whereby name of the private respondent Mrs. Sunita Jangid has now been inserted in the office order dated 03.12.2012 in the cadre of Commercial

Inspector in the pay band of RS.9300-34800+Grade Pay of Rs. 4200. The petitioner submits that passing of the impugned order dated 21.02.2023 will result into serious prejudice to the interest of the petitioner, as at present, he is working as Divisional Commercial Inspector and if the impugned order dated 21.02.2023 is given effect, petitioner would be reverted back to the post of Clerk.

The petitioner further submitted that though first stay application was filed on behalf of the petitioner along with the writ petition, however this Court on 25.11.2022, had refused to stay the effect and operation of the order passed by the Central Administrative Tribunal, Jaipur and if the impugned order dated 21.02.2023 would not be stayed, then irreparable loss would be caused to him and since the matter is sub-judice, as such, the rights of the petitioner is required to be protected.

Reply to the application on behalf of the official respondents has been filed and Mr. Anil Tiwari, Chief Law Assistant, North Western Railway appearing on behalf of respondent No.1 and 2 submits that the impugned order dated 21.02.2023 is only in respect of implementation of the order passed by Central Administrative Tribunal, Jaipur and since this Court had specifically declined to stay the effect and operation of the order passed by the Central Administrative Tribunal, Jaipur, consequential orders are required to be issued.

It is also been submitted that a bare perusal of the order dated 21.02.2023 would show that this order is subject to final outcome of the D.B. Civil Writ Petition No. 1588/2022 and as such,

the effect of the order will be determined finally, as per decision of this Court.

Ms. Sunita Jangid - private respondent has also objected the prayer sought in second stay application and she has submitted that after order has been passed by the Tribunal, she is required to be assigned proper seniority and as such, the Railway Administration has not committed any error in passing the impugned order dated 21.02.2023.

We have heard both the parties.

This Court finds that in the present writ petition, the order of the Tribunal dated 25.11.2021 has been put to challenge by the petitioner, who was respondent No.3 in the original application.

This Court finds that the Division Bench of this Court on 25.11.2022, after hearing learned counsel for the parties, had admitted the writ petition filed by the petitioner but declined to stay the effect and operation of the order passed by the Tribunal.

This Court finds that once the prayer of staying the effect and operation of the order passed by the Tribunal has been declined by the Division Bench of this Court, it would not be appropriate for this Court to pass any order in the second stay application.

This Court also finds that the respondents while passing the order dated 21.02.2023 have made it clear that this order shall be subject to the final outcome of the writ petition and the necessary correction in the order dated 03.12.2012, giving benefit to the private respondent, is only on a provisional basis.

This Court also finds that since the respondents have made it very clear in the order dated 21.02.2023, that rights of the

petitioner are not finally determined and the outcome of the writ petition will have vital effect on the entire controversy, hence the second stay application filed by the petitioner for staying the effect and operation of the order dated 21.02.2023 is not accepted.

Accordingly, the second stay application is dismissed.

The matter requires final adjudication.

Let these cases be listed for final disposal at orders stage in the first week of July, 2023.

(ASHUTOSH KUMAR),J

(ASHOK KUMAR GAUR),J

AARZOO ARORA /21-22