

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1872 of 2002

New Delhi, this the 13th day of February, 2003

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Shri Pramod Kumar Nijhawan
S/o Shri O.P. Nijhawan
Senior Clerk, DRM Office,
New Delhi
R/o House No.137/1
Railway Colony, Kishanganj,
Delhi-110006.

APPLICANT

(By Advocate: Shri S.K. Sawhney)

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, DRM Office,
Chelmsford Road,
New Delhi.

..Respondents

(By Advocate: Shri Rajinder Khatter)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

Applicant has impugned an order dated 25.6.2002 vide which he has been transferred to ADKN/Ghaziabad against an existing vacancy.

2. To assail this order, the applicant has taken only one ground that the applicant was transferred to the department only on 31.8.2001. That just after 8 months he has been again transferred while various persons whose names are given in para 4.6 are working on the same seat in the same station for the last many years right from 1988, 1989, 1990, 1991 etc., so the applicant claims that since he has the shortest duration in the section as such he should not have been transferred and in support of his

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case he has also referred to a judgment reported in 1991 (1) ATJ 243 entitled as D.R. Sengal Vs. Chief Postmaster General and Others, wherein it has been observed as under:-

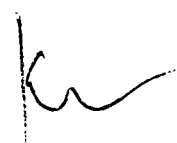
"Constitution of India - Article 14 - Discrimination - Transfer - Transfer ordered on account of accommodating another person - Order of transfer held, discriminatory and as such violative of Article 14 of the Constitution of India.

Constitution of India - Articles 14 and 16 - Transfer - Official who have stayed longest at the same station should be transferred first - Order of transfer other than person who have stayed longest at the same station - Such an order, held, bad".

3. So relying upon the above, the learned counsel for the applicant is being transferred after a short duration as such it is prayed that his transfer should be quashed.

4. The respondents are contesting the OA. The respondents submitted that the applicant had initially joined as Material Checking Clerk when he was given benefit of Assured Career Programme (ACP) in the grade of Rs.4500-7000 vide order dated 9.3.2001. Thereafter the applicant passed the suitability test for the post of Senior Clerk and was posted as DSE (Estate) on 5.8.92 and was thereafter transferred to DSE (Estate) on 31.8.2001 and since then he is working there.

5. The respondents further pleaded that it is the competent authority which is appropriate authority to



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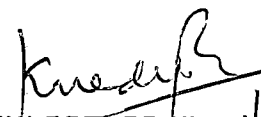
decide the utilization of the services of the employees as per the requirement and to the best of its decision. Thus it is submitted that the respondents has been keeping in mind the job requirements and suitability of the applicant.

6. I have heard the learned counsel for the parties and gone through the records of the case.

7. The only ground taken by the applicant is that he has a shorter duration of stay in the present section but there is no denial by him that he is in Delhi for quite a long period. The OA does not allege any mala fide against any of the officer which may be the basis of the transfer. Merely because he has been transferred only after a short duration, cannot be interpreted to mean that there is any mala fide against him by any of the officers on the basis of which he has been transferred. Since there is no Mala fide in the present OA, so the same has no merits.

8. No other contention has been raised before me.

9. In view of the above, nothing survives in the OA and the same is dismissed. No costs.


(KULDIP SINGH) 13. 2-20
MEMBER (JUDL)

/Rakesh