

Central Administrative Tribunal, Principal Bench

OA No. 2726/99

New Delhi this the 16th day of March, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)

Smt. Prabha Saksena,
W/o Shri S.C. Saksena,
R/o Railway Quarter No.649,
Rest Colony, Tundla,
District: Firozabad (UP). ...Applicant

(By Advocate Shri M.K. Gaur, proxy for Sh. S.S. Tiwari)

-Versus-

Union of India through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Dy. Chief Signal & Telecom
Engineer (MWM), Northern Railway,
2nd Floor, New Exchange Building,
State Entry Road,
New Delhi.

3. The Deputy C.P.O.(C) II,
Northern Railway,
Kashmere Gate,
New Delhi.

4. Sr. Section Engineer (Telecom) MWM,
Northern Railway,
Tundla (UP). ...Respondents

(By Advocate Mrs. Meera Chhibber, through Sh. D.S.
Jagotra, proxy counsel)

O R D E R (ORAL)

None appears for the parties either in person or through their counsel except the aforesaid proxy counsel to inform that the Advocates are abstaining from Court. Since this is admitted case and the pleadings are complete, I dispose of the case on the basis of the available pleadings on record even in the absence of the parties under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

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2. The applicant challenges the order of transfer from Tundla in Northern Railway to Kanpur.

3. The applicant is working as a Senior Clerk at Tundla in Northern Railway. She was earlier transferred by order dated 10.11.98 to Kanpur but on her representation, to avoid mid-session disturbance to the studies of her children, transfer order was cancelled. Thereafter, she applied for transfer from MWM to construction in her representation dated 2.6.99 but no decision was taken. She ~~has~~ also requested for inter-divisional transfer from Northern Railway Headquarters to Allahabad Division on loss of seniority but the said representation dated 10.2.99 was not disposed of. It is still pending. It is her grievance that her husband is posted at Tundla itself and ^{he is} ~~they~~ also allotted Railway accommodation and as per the Railway Board's letter dated 5.11.97 both the husband and wife have to be posted at the same station as far as possible so that they could lead the normal undisturbed life. However, she has now been transferred under the impugned order dated 4.12.99.

4. It is, however, the case of the respondents that the applicant has been transferred ^{to} ~~from~~ the post of ASTE/MWM/TDL ⁱⁿ ~~was~~ transferred from Tundla to Kanpur and after the MWM link was changed from analog to digital due to newly introduced technology and the same has been taken over from Construction organisation SW and IRCOT to Maintenance organisation. Recently mobile radio communication system over Delhi-Mugalsarai has also been taken over from construction organisation to this organisation for maintaining the same. Abovesaid link is maintained by ASTE/MWM/CNB. It was, therefore, stated that



it was not possible to manage the work of ASTE/MWM/CNB keeping the clerk at Tundla. Hence, there was no alternative except transferring the post of Clerk from Tundla to Kanpur. It is also stated that the applicant could not be retained at Tundla to stay with her husband as the post was not available at Tundla. Taking into consideration the ~~she has~~ applicant's children, her earlier transfer was cancelled earlier on 23.11.98 and meanwhile the ASTE requested to transfer the applicant to Kanpur immediately for the smooth working of the office as his work was affected and he had to do the work of the Clerk also himself while the applicant was sitting ~~idle~~ at Tundla without any ~~break~~ work.

5. I have gone through the pleadings and the points raised by the applicant.

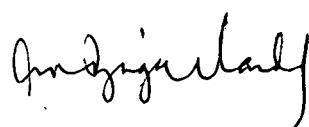
6. The main ground urged by the applicant is that her husband being at Tundla in the Railway service and her children are studying at Tundla she is to be retained with her husband and children at Tundla only. She relies upon Railway Board's circular dated 5.11.97. The respondents, however, are not disputing this circular under which it is the duty of the Railways to keep husband and wife at one station as far as possible not to deprive ~~to~~ leading a normal family life. The Railways, ~~also~~ however, have explained the difficulties in keeping the applicant at Tundla, as seen ~~in~~ from the above facts. In view of the change of technology from analog to digital and the same has been handed over for maintenance by ASTE/SWM the post of ASTE as well as the Clerk to assist ASTE have been transferred to Kanpur. The respondents have no choice except to transfer the applicant for the smooth functioning of the office of



ASTE. In fact accepting the request of the applicant to avoid mid-term transfer the earlier transfer orders were cancelled in November, 1998. Thereafter the applicant herself has given representation for transfer to Allahabad on inter-divisional transfer, it is stated by the respondents that the said representation has been forwarded to the concerned authority and the action will be taken on the same in due course. Under the circumstances, I do not find any justification for interfering with the transfer order.

7. It is well settled that the judicial review jurisdiction of the Tribunal cannot extend to interfere with the orders of transfer given by the administration and taking over the functions of transfer of officers by the Tribunal itself. It is for the appropriate authority to consider and keep officers at the places they are required to function, depending upon the exigencies of service. In the instant case, I do not find any ground for interference.

8. As it is stated that the representation made by the applicant for inter-divisional transfer has been forwarded to the appropriate authorities, the disposal of the OA will not preclude the authorities to consider the said representation and pass appropriate orders thereon, as early as possible but preferably within a period of three months from the date of receipt of a copy of this order. The O.A. is accordingly dismissed. No costs.



(V. Rajagopala Reddy)

Vice-Chairman (J)

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