

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

(A)

O A No. 1319/98

New Delhi: Dated: this the 4th day of September, 1998.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Shri T. C. Kataria, s/o Shri T. D.
Kataria,

R/o C-26 K, Railway Colony, Gulabi Bagh,
Lajpat Nagar,
New Delhi-24. Applicant.

(By Advocate: Shri G. D. Gupta)

Versus

1. Union of India through
the General Manager,
Northern Railway Headquarters,
Baroda House,
New Delhi.

2. The General Manager (Personnel),
Northern Railway Headquarters,
Baroda House, New Delhi.

3. The Administrative Officer,
Northern Railway,
Central Hospital,
New Delhi.

4. Dr. Sudhir Kumar Sharma, DMO,
Northern Railway,
Lajpat Nagar,
Health Unit,
New Delhi

..... Respondents.

(Shri Rajeev Sharma, Advocate)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' order dated 24.6.98 (Annexure-A1) transferring him from Delhi to Udhampur; the order dated 24.6.98 (Annexure-A20) rejecting his telegram praying for leave and the order dated 3.7.98 (Annexure-A21) rejecting his letter for extension of leave.

2. As per respondents' own reply, applicant who joined Western Railway on 28.1.87, was transferred

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at his own request to Northern Railway and joined Central Railway Hospital, New Delhi on bottom seniority on 30.10.89. From time to time he was sent to work at different health Units under Central Hospital, New Delhi, namely Lajpat Nagar, Sarojini Nagar etc. and on 18.3.91 he was posted to Health Unit Lajpat Nagar, and also worked in other health units. He was promoted as Sr. Pharmacist Lajpatnagar w.e.f. 1.5.96. On 8.6.98 Dr. S.K. Sharma DMO, Northern Railway, Lajpat Nagar (Respondent No.4) complained to Admn. Officer, Northern Railway, Central Hospital, New Delhi (Respondent No.3) that applicant had physically assaulted him. Respondents state that applicant was ordered to be suspended immediately, but as the Lajpatnagar dispensary was closed, the order could not be served upon him at that time. However, by next morning when Dr. Sharma visited the Lajpatnagar Dispensary that order had been served, but despite that the applicant went inside his chamber presumably to start work. When Dr. Sharma informed him that being under suspension he should hand over charge to his senior colleague, applicant is alleged to have instigated the other staff also, all of whom stopped work and left the work place despite being told of the consequences of their action. Thereupon applicant is alleged to have proceeded to Central Hospital with other Lajpatnagar Dispensary Staff and instigated the Central Hospital Staff, following which there was a general stoppage of work in Central Hospital also. The Medicinal Director and Chief Medical Director were gheraoed, and the staff indulged

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in slogans shouting. Respondents state that police had to be called in to maintain peace in the hospital. Eventually the issue was resolved in the evening by negotiation between the Medical Director of the Hospital and Union representatives by which inter alia, while the charge sheet was to be issued to applicant, suspension was to be revoked; and applicant was to report to Central Hospital on 10.6.98 for further orders. Respondents state that applicant reported on 10.6.98 to Admin. Officer, Central Hospital and was asked to work at Health Unit Basant Lane, Delhi. On 11.6.98 he asked for 10 days' leave which was sanctioned. He was to report back on 22.6.98, but sent a telegram seeking extension of leave for 10 days. This was rejected by letter dated 24.6.98 which was received by him on 26.6.98, but despite that he sent another application on 27.6.98 falsely stating that he had not received any acknowledgement of his application dated 22.6.98, that was under treatment of Safdarjamj Hospital, but when a senior doctor was sent to applicant's residence to examine him, he stated in his report dated 4.7.98 that he had visited applicant's residence but found it locked between 12.15 and 12.45 p.m.

3. Respondents stated that meanwhile he was transferred by the impugned orders from Delhi to Udhampur on administrative grounds. They state that the post of Pharmacist at Udhampur is sanctioned for one year, and is need based and work charged, and applicant will continue to have lien at Central Hospital.

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Delhi and shall be considered for all service benefits like promotion etc. Elsewhere it is stated that it is because of applicant's ability that he has been selected to work at Udhampur.

4. I have heard applicant's counsel Shri G. D. Gupta and respondents' counsel Shri Rajeev Sharma.

5. Shri Gupta has invited attention to each of the grounds taken in para 5 of the OA and has cited the rulings dated 13.1.94 in OA No. 539/93 Inder Raj Vs. UOI & Ors and dated 4.9.96 in OA No. 879/96 R.K. Saini Vs. UOI & Ors. in support of his arguments. In particular, it has been emphasised that this transfer is in violation of para 5(xii) of Railway Board's letter dated 2.5.84 and Railway Board's letter dated 17.7.95. Reliance has also been placed on the judgment in K.K. Jindal Vs. G.M. Northern Railway, 1986(2) SLR 69.

6. On the other hand respondents' counsel has broadly reiterated the stand taken by respondents as summarised in para 3 above and has relied upon the rulings in N.K. Singh Vs. UOI 1994(6) SCC 98 and UOI Vs. S.L. Abbas 1993(4) SCC 357 to support his assertion that the transfer warrants no judicial interference.

7. I have considered the matter carefully.

8. Applicant has himself stated that he has represented against the transfer on 7.7.98 to which he has received no reply (para 4.8 of OA). A copy of the representation dated 7.7.98 addressed to GM(P)

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Northern Railway is at Annexure-A19 and respondents also do deny that the aforesaid representation has not been replied to by them.

9. Under the circumstance this OA is disposed of at this stage with a direction to respondents No.1 and 2 in the first instance to apply their minds to applicant's aforesaid representation dated 7.7.98, and to pass a reasoned order thereon after taking into consideration the grounds taken by applicant therein, respondents' own instructions on the subject referred to in para 5 above, as well as relevant judicial pronouncements, within two months from the date of receipt of a copy of this order, under intimation to applicant. Till Respondents no.1 and 2 pass the aforesaid orders as directed above, Respondent No.3 shall not compel applicant to join duty at Udhampur. No costs.

Arshgi
(S. R. ADIGE)
VICE CHAIRMAN (A).

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