

(19)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.39/2000

New Delhi, this 20th day of April, 2001

Hon'ble Shri M.P. Singh, Member(A)

S.K. Khanna
JE-II/P, Way Inspector
Northern Railway, Sadulpur .. Applicant

(By Shri P.S.Mehandru, Advocate)

versus

Union of India, through


1. Ministry of Railway
Baroda House, New Delhi
2. Northern Railway, Divisional Office
Bikaner
3. General Manager
Northern Railway, Baroda House
New Delhi
4. Chief Administrative Officer
Northern Railway
Kashmere Gate, New Delhi .. Respondents

(By Shri R.L.Dhawan, Advocate)

ORDER


By filing this OA, applicant is seeking directions to quash and set aside the transfer order dated 19.11.99.

2. Brief facts of the case are that the applicant who is working as Permanent Way Inspector was transferred from Bikaner to Patel Nagar, Delhi. He was again transferred to ultrasound foundation defect at Baroda House, Delhi from Patel Nagar. He was further transferred for training at Bikaner. Thereafter he was sent for training in Lucknow with RSDO in July, 1999. On the very next day he was not accepted for training on account of non-qualification. He was compelled to return to Baroda House till 15.7.99. Thereafter he was transferred to Bikaner to work under Divisional Superintending Engineer and from there he was



transferred to Sidhmukh in District Churu (Rajasthan) as PWI. Thereafter, he was again sent back to Hqrs. Office, Baroda House vide impugned order dated 19.11.99. Applicant has filed this OA on the ground that he has been transferred frequently without any administrative exigency or public interest. His wife is working under the State Government of Rajasthan and his children are studying there. The frequent transfers of the applicant are arbitrary and unreasonable. Aggrieved by this, he has filed the present OA.

3. Learned counsel for the respondents has submitted that the applicant while working as Junior Engineer/II/P.Way in the grade of Rs.5000-8000 on ad hoc basis in the construction organisation is required to work at the places where the construction activities are available. On being relieved from construction organisation, the applicant was directed to work on USFD organisation in Bikaner Division vide GM's notice dated 8.5.99. He was posted as PWI/Sidhmukh under AE, Dadul Pur vide letter dated 13.8.99 and thereafter he was directed back to GM(Engg) vide order dated 19.11.99. The main purpose of establishment of the construction organisation is to work in various places where construction activity is going on and hence utilisation of the employee at various places is in accordance with service condition. According to the learned counsel, transfer of a government servant appointed to a transferable post is an incident of service. Law is well settled that no government servant has a legal right for being posted at a particular place. Transfer from one place to another is generally a condition of service and the employee has no choice in the matter.



In the case of Gujarat Electricity Board Vs. A.S. Poshani SLJ 1989(3) SC 68, the apex court has held that transfer from one place to another is necessary in public interest and efficiency in public administration. In view of these submissions, the OA may be rejected.

4. Heard the learned counsel for the parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicant stated that during the last one year, the applicant has been transferred frequently which has been done with a view to harass him. There is no administrative exigency or public interest for frequent transfers. Learned counsel for the applicant also brought to my notice a copy of transfer order dated 26.5.2000 which has been effected during the pendency of the OA. By this order, applicant has been transferred to Construction Organisation with immediate effect.

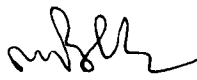
6. On the other hand learned counsel for the respondents submitted that the applicant has been transferred vide order 26.5.2000 at his own request. The applicant has been promoted to a higher post on ad hoc basis and transferred to Construction Organisation at his own request. It is only with a view to accommodate him and continue in a higher post that he is being transferred from one place to another where work is available in the construction organisation. Learned counsel also made a submission before the Bar that if the applicant is not willing to continue in the construction organisations, respondents have no difficulty to transfer him to his parent Division i.e.



Firozpur but in that case they will have to revert him that too to a lower substantive post where he is holding a lien in that Division.

7. After a perusal of the records and hearing the learned counsel for the respondents, I find that the relief sought for by the applicant to quash the order dated 19.11.99 has become infructuous after he has been further transferred to Construction Division at his own request by order dated 26.5.2000, which was enclosed with the letter No.939-E/3-IX/Const./PWI dated 9/2000 addressed to the DRM, Northern Railway, Bikaner and copy endorsed to the Railway Counsel. Moreover, it is well settled in law that court/Tribunal cannot interfere in the matter of transfer unless it is malafide and has been done against statutory rules. In this case, no such ground exists.

8. In view the aforesaid position and the fact that the relief sought by the applicant does not survive, OA does not merit any consideration and is liable to be dismissed. I do so accordingly. No costs.


(M.P. Singh)
Member(A)

/qtv/