

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.NO.602/2000

New Delhi. this the 13th day of November, 2000.

HON'BLE MR. S.A.T. RIZVI. MEMBER (A)

Radhey Shyam Nagar. S/O Sh. Bahadur Singh. Goods Clerk. FCI Sidina. Northern Railway. Delhi Cantt.

R/O Q.No.343. Near West Cabin. Railway Colony. Delhi Cantt.

...Applicant.

(By Advocate: Sh. G.D.Bhandari)

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Union of India through

1. The General Manager. Northern Railway. Baroda House. New Delhi.
2. The Divisional Railway Manager. Northern Railway. Bikaner.
3. The Station Supdt.. N.Railway Station. Delhi Cantt.

...Respondents.

(By Advocate: Sh. P.M.Ahlawat)

O R D E R

The applicant. who is a Goods Clerk in the pay scale of Rs. 1400-2300/- working at the FCI Sidina. Northern Railway. Delhi Cantt.. is aggrieved by the order of his transfer dated 1.3.2000 (Annexure A-1) by which he has been transferred from Delhi to Hisar. He has cited several reasons why he should not have been so transferred. The respondents have contended that he has been transferred in accordance with the policy for periodical transfer of railway employees contained in the Railway Board's letter dated 27.9.89 (Annexure R-1). and that accordingly there is no ground for interference in this matter.

2. I have heard the learned counsel for the parties and have perused the material placed on record.

3. The arguments in this case largely centres round the aforesaid policy circular of 27.9.89. It is seen that the railway board have decided, as a matter of policy, that the employees holding sensitive posts and who frequently come into contact with the public and/or contractors/ suppliers should be transferred every four years. The posts identified as sensitive for this purpose have been listed in the aforesaid circular. It is also seen that while some of the posts have been so enlisted, the Railway administration is free to add to the list of such posts for the purpose of implementation of the said policy.

4. The applicant's contention is that the post occupied by him at the FCI Siding is not a sensitive post inasmuch as it does not entail contact with the public etc. He has relied on Northern Railway's letter dated 5.4.2000 (Annexure A-10) which deals with the periodical transfer of ticket checking staff and the Station Masters. The posts of Ticket Collectors/TTEs and Asstt. Station Masters/Station Masters are listed as sensitive posts in the Railway Board's circular of 27.9.89. Notwithstanding this position, the General Manager, Northern Railway has decided in the above-mentioned letter of 5.4.2000 to pend the periodical transfer of certain categories of the ticket checking staff and the Station Masters on the ground that these functionaries do not come into contact with the general public. The applicant's contention is that while the said letter of 5.4.2000 is, strictly speaking, not applicable to his case as he is a Goods Clerk yet the principle underlying the same should find application in his case also.

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5. The applicant has also contended that in terms of the Railway Board's circular of 14.3.74 (para 4.11 of the OA), the members of staff nearing superannuation are not to be transferred. The said circular finds application only in those cases in which the employee happens to be within two years of the date of his superannuation. The applicant is due to retire on 30.11.2002 if the retirement age is taken as 60 years. Thus, on the date of his transfer, i.e., on 1.3.2000, he had about 2 and half years to go before retirement. So, strictly speaking, the Railway Board's circular in question should not apply in his case. However, reckoned from now (Oct. 2000), he has just about 2 years to go before he retires. In order to support his contention further, the applicant has mentioned that his daughter is presently undergoing training in the CWC, New Delhi where she joined on 17.2.2000 and that she is also studying for the B.Com Degree. One of his sons is also studying in B.A. His transfer at this juncture will, therefore, dislocate his family and will mean financial and other problems for the applicant.

6. I find that the contention of the applicant that the post currently occupied by him is not of a sensitive nature, has not been sufficiently answered by the respondents who have simply repeated the policy provision that those holding sensitive posts would need to be transferred in terms of the Railway Board's circular dated 27.9.89. The applicant was transferred on 1.3.2000 but has been continuing at Delhi Cantt. (FCI Siding)

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under stay orders granted by the Tribunal. Taking the age of retirement as 60 years, the applicant presently has just about two years to go before he superannuates. Since the respondents have not specifically commented on the sensitivity of the post currently occupied by the applicant and the applicant has clearly contended that it is not a sensitive post considered from the angle of public dealings. I find force in the contention raised by the applicant that the principle underlying the letter dated 5.4.2000 discussed above should be made to apply in the present case having special regard to the personal circumstances of the applicant highlighted in the preceding paragraph.

7. In the result, the OA succeeds and the impugned transfer order is quashed and set aside. However, since the applicant wishes to stay on in Delhi, the respondents are at liberty to shift the applicant if considered necessary from the current post occupied by him to some other post at Delhi itself. The respondents will do so only if, according to their best judgement, the applicant is occupying a sensitive post of the nature referred to in their circular dated 27.9.89 consistently with the spirit of the instructions contained in Northern Railway's letter dated 5.4.2000.

8. The OA is accordingly disposed of without any order as to costs.

S.A.T. Rizvi

(S.A.T. Rizvi)
Member (A)

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