

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.642/2000

New Delhi this the 9th day of August, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Shri Kishan Kumar Parsad,
S/o Shri Lakhan Lal Parsad,
Chief Booking Clerk,
Northern Railway,
Railway Station,
Jakhal (Haryana)

...Applicant

(By Advocate Shri B.S. Mainee)

-Versus-

Union of India : through

1. The General Manager,
Northern Railway,
Barda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Station Superintendent,
Northern Railway,
Jakhal (Haryana).

...Respondents

(By Advocate Shri D.S. Jagotra)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

The grievance of the applicant in the present OA is his transfer order dated 31.3.2000. The applicant contends that being the Office Bearer of All India OBC Railway Employees Association before resorting to his transfer order the Liaison Officer is to be apprised of the circumstances as provided under the Railway Board letter dated 5.3.99. It is also stated that despite being in the sensitive category he cannot be subjected to a periodical transfer as provided under Railway Board's letter dated 17.9.89. Drawing my attention to an order passed by the respondents on 10.9.89 wherein regarding periodical transfer of staff holding sensitive posts including the

Office Bearer of recognized Trade Unions have been ordered to be valid and they were made subject to the periodical transfers. Another letter dated 26.10.99 has been shown to me wherein the decision taken on 10.8.99 has been rescinded and the orders have been withdrawn, with the result Railway Board's letter dated 5.3.99 holds the field, wherein it is incumbent on the respondents before transferring an office bearer of the union to apprise the Liaison Officer. Shri B.S. Mainee, learned counsel of the applicant also stated that he made a representation against the transfer orders, highlighting the Railway Board's instructions but the authorities have not paid any heed to the same and have not yet disposed of his representation.

2. On the other hand, strongly rebutting the contentions of the applicant, the learned counsel of the respondents stated that transfer order cannot be interfered with and the same is done in the exigencies of service as well as in public interest. While drawing my attention to Railway Board's letter dated 17.9.89 it is stated that as the applicant belongs to sensitive category and has already completed his tenure of 4 years he is liable for periodical transfer. It is also stated that the present application is pre-mature as the applicant has approached this Tribunal for redressal of his grievance without waiting for a period of six months after making representation, as prescribed under Section 20 of the Administrative Tribunals Act, 1985.

3. I have carefully considered the rival contentions of the parties and perused the material on record. On perusal of the letter dated 26.10.99 I find that the instructions issued by the respondents have been

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withdrawn and the Railway Board's letter dated 5.3.99 stipulates communication of reasons to Liaison Officer in case of transfer of SC/ST/OBC holding a position in the Union or having an Office Bearer of the same. However, I find that the applicant has approached this Tribunal immediately after making a representation, i.e., on 4.4.2000, as such under Section 19 (4) of the Administrative Tribunals Act, 1985, no cognizance can be taken of any order passed on the same. I deem it proper in the interest of justice to direct the applicant to make a representation against the order of transfer, taking all his grounds, including the effect of letters issued by Railway Board within a period of 15 days from the date of receipt of a copy of this order. The respondents are also directed to dispose of the same by passing a detailed and speaking order thereafter within a period of 15 days. It is fairly submitted by the learned counsel for the respondents that till a decision is arrived at on the representation of the applicant the transfer order would not be given effect to. In view of this, the OA is disposed of with the aforesaid directions. No costs.

S. Raju

(Shanker Raju)
Member (J)

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