

3

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI.

Regn. No. OA 697 of 1989

Date of decision: 28.4.1989

Shri Triloki Nath

....

Applicant

Vs.

Union of India & Others

....

Respondents

PRESENT

Shri G.D. Bhandari along with Shri O.P. Gupta, counsel for the applicant.

Shri S.N. Sikka, counsel for respondents No. 1 to 3.

Shri J.C. Singhal, counsel for respondent No.4 .

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri Triloki Nath , Head Clerk in the Office of the Divisional Cashier, Northern Railway, Ferozepur, against the orders dated 29.3.89 passed by the Deputy Director Establishment (R), Railway Board, transferring Smt. Vimla Sirohi, Head Clerk, Cash Office, Moradabad, to Delhi, on the ground that this would jeopardise his posting at Delhi.

2. Brief facts of the case are that the applicant was working as Senior Clerk in the office of the Chief Cashier, New Delhi, and was promoted as Head Clerk on 8.2.88 and thereupon posted in the Divisional Cashier's Office at Ferozepur. The wife of the applicant is working as a clerk in the Delhi Transport Corporation. The applicant has three minor children. His mother is a widow and a chronic T.B. patient and requires his assistance. The applicant had applied for his transfer from Ferozepur to Delhi and is registered in the Priority Register at Sl. No.1. Smt. Vimla Sirohi, respondent NO.4, had also applied for such a transfer and she is at Sl. No. 3 in the Priority Register. The Railway Board have transferred respondent No.4 to New Delhi vide their letter dated 29.3.89 (Annexure IX) although she is

at Sl. No. 3 in the Priority Register. The Railway Board in their letter to the General Manager Northern Railway have mentioned that "in the circumstances obtaining in the case and the fact that a commitment has been given at the level of MOS (R), the Ministry of Railways (Railway Board) desires that Smt. Vimla Sirohi may be transferred to Delhi immediately by transferring the post of Head Clerk from Moradabad to Delhi by re-adjustment of cadre till such time a vacancy arises in Delhi. It has also been decided that in the event of transfer of junior most Head Clerk to Ambala, Smt. Sirohi will stand proected at Delhi." The applicant has stated that the Railway Board has no powers to issue such orders and these are arbitrary and against natural justice.

3. It was stated by the learned counsel for the respondents that Smt. Sirohi was considered for posting in Delhi on a very sympathetic grounds and that the Railway Ministry has powers to change any vacancy from one place to another and in any case Smt. Vimla Sirohi has come to Delhi alongwith her post in Moradabad and this has not prejudiced in any way the posting of the applicant as there was no vacancy at Delhi where the applicant could be appointed.

4. The original application as well as the miscellaneous petition have been argued by the learned counsel on both sides. Shri G.D. Bhandari has stated that he does not want to oppose the posting of Smt. Vimla Sirohi at Delhi, but he would like that as the applicant had been kept at Sl. No.1 in the Priority Register for transfer to Delhi, his interest should be protected. The applicant had asked for his posting to Delhi on compassionate grounds which have been explained in his application to the railway authorities and the Railways have also helped him to post him temporarily against the leave vacancy. Since he is still working against a leave vacancy, he should be continued at Delhi till a regular vacancy arises.

5

5. The learned counsel for Respondent Nos. 1, 2 and 3, Shri S.N. Sikka, stated that the applicant has now been relieved as Shri Ram Saran Das who was on long leave earlier has joined.

6. At this stage, it may not be necessary to go into the legal aspects whether the powers of transfer are entirely with the General Manager as far as the staff on open railway lines is concerned or whether Railway Board can interfere in such matters. The case may be considered on compassionate grounds. As the applicant has been kept at Sl. No. 1 in the Priority Register for transfer to Delhi, the respondents may consider posting him at Delhi in any leave vacancy or regular vacancy which may occur at Delhi. It has been stated by the counsel for the applicant that one Shri Kanhiya Lal, cashier, is on long sick leave and the applicant had actually worked against his leave vacancy. If this vacancy is still available, respondent No.3 may consider the applicant's case for posting against this leave vacancy or any other leave vacancy which may arise till a regular vacancy occurs. The original application as well as the miscellaneous application are disposed of accordingly. This is to clarify that this order will not in any way affect the present posting of respondent No.4 to Delhi.

7. There will be no order as to costs.



(B.C. Mathur)
Vice-Chairman