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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Date of decision: 7.12.88

Regn. No. OA.2067 of 1988

Shri Gur Parshad

Applicant

Vs.

Union of India and Another

Respondents

For the applicant:

Shri Umesh Mishra, Counsel.

For the respondents:

Shri P.K. Sarkar, counsel for
Ms. Shashi Kiran, counsel.

Regn. No. OA 2100 of 1988

Shri F.B. Maston & Others

Applicants

Vs.

Union of India & another

Respondents.

For the applicants:

Shri Umesh Mishra, counsel.

For the respondents:

Shri O.N. Moolri, counsel.

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

These applications have been filed under Section 19 of the Administrative Tribunals Act, 1985, by the applicants against their transfer from Diesel Shed, Rosa, Northern Railway, to Lucknow.

2. The brief facts of the case are that the applicants have been working as Diesel Khalasi Helpers/Diesel Mechanical Fitters/Diesel Electric Fitters at the Rosa Diesel Shed under the Moradabad Division of the Northern Railway, but as the General Manager, Northern Railway, took a decision to close down the Diesel Sub Shed at Rosa, the employees, including the applicants, were given the option to get themselves transferred to Lucknow or Mughal Sarai Diesel Sheds which became necessary as the Rosa Diesel Shed being closed, there would be no work for the applicants there. The applicants gave their option for going to Lucknow, but some of their colleagues were retained at Rosa by changing their categories.

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According to the applicants, the transfer order is against the guidelines issued by the Railways inasmuch as the transfers cannot be made from one Division to another and that the transfer should not be made during the mid session of children's education.

3. The learned counsel for the applicants states that since the applicants have given their option to go to Lucknow, they are not objecting to the transfer as such but they only seek some time so that their children's education does not suffer. They would be quite willing to go to Lucknow in the beginning of June, 1989 as the educational institutions at Rosa will close only towards the end of May, 1989 and, therefore, they seek the stay of the transfer orders till the end of May, 1989.

4. The learned counsel for the respondents pointed out that no guidelines have been violated inasmuch as the applicants themselves have given their option to go to Lucknow. In fact, some of the applicants were earlier working in Lucknow Division. The circumstances under which these transfers have become necessary are unusual as the Diesel Shed at Rosa has been closed down and there is no work there for the applicants.

5. I find that there is no legal point involved. The guidelines are issued for normal transfers and not when a Diesel Shed is closed down. The closing down of the Diesel Shed at Rosa has not been questioned by the applicants. As such, the orders of transfer cannot be quashed or stayed. The difficulty of the applicants may, however, be genuine and the respondents may consider the case of the applicants on the merit of each case. It appears that the DRM issued a letter to Loco Foreman, Rosa, on 3.11.1988 in the case of one Rajender Nath Pandey, Diesel Electric Khalasi, that he should be taken back on duty at Rosa and that no other employee may be sent from Rosa to Lucknow until further orders. It is purely an administrative matter to be decided by the respondents, but it is

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true that shifting the families in the mid session of the children's education would create problems for the applicants wherever the children are studying at Rosa. It is, therefore, directed that the families of the applicants should be allowed to live in the railway quarters at Rosa till the end of May, 1989 as a special case wherever the education of the children is involved. The applications are, therefore, disposed of accordingly. There will be no order as to costs.

B. C. Mathur
7.12.88
(B.C. Mathur)
Vice-Chairman

Note : original Judgment - may
kindly be seen in
off 2067 / 88 ,

By
Pratap Singh
Court Reporter
7/12/88.