

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Date of Decision: 17.11.88.

Regn. No. QA/809/1988

KRISHAN KUMAR SACHDEVA

Applicant

VS

UNION OF INDIA & OTHERS

Respondents.

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PRESENT:

Shri V.P.Sharma, Counsel for the applicant.

Shri P.S.Mahendru, Counsel for the respondents.

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

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Tribunals

This is an application under Section 19 of the Administrative/Act 1985 filed by Shri Krishan Kumar Sachdeva, who was working as Booking Clerk at Hissar, against the transfer order dated 16.4.1987 passed by the Divisional Personnel Officer, Northern Railway, Bikaner (Annexure A-I to the application).

The applicant was appointed as Booking Clerk at Rewari under the Bikaner Division of the Northern Railway on 1.4.1982 on compassionate grounds as his mother who was a cancer patient got premature retirement on medical grounds. The applicant worked at Rewari upto 1985 and was transferred to Hissar in the same year. He was again transferred from Hissar to Bangi Nihal Singh near Bhatinda on 16.4.87. The applicant has challenged this transfer order on the grounds that it is punitive and against the policy of the respondents. The learned counsel for the applicant said that the transfer could be considered punitive as it has been made in the same grade without assigning any reasons. He also said that the policy of the Railways is to keep a person at one place for a period of five years and not transfer him before that. The applicant made several representations to the authorities to post him near Delhi as his mother requires treatment from the Railway Hospital, Delhi and his wife is working in the P. & T. Department in Delhi. But no action has been taken by the respondents. Shri Sharma, Counsel for the applicant cited the case of 1980 (SLR 788 where the Madhya Pradesh High Court has held that if a transfer has been done to accommodate some one else it


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will be malafide and bad in law. The respondents have pointed out that the applicant has not been singled out for any transfer but he has been transferred as a part of general transfers both in 1985 and in 1987 and there is no malafide/^{of}any kind in transferring the applicant.

The Madhya Pradesh High Court case is not exactly relevant in this case as the transfer of the applicant from Hissar was not to accommodate some one else in his place and it cannot be considered as punitive merely because the transfer is in the same grade of pay and for which no reasons have been assigned. The transfers of the Govt. employees are incidents of service and normally cannot be interfered with unless some malafide is established. It is for the employers to ~~so-employ~~^{utilize} the services of their employees in the best possible way and they are in the best position to judge where to post different employees under them. In the circumstances, it does not appear necessary for any court to interfere with this transfer even though a stay had been granted earlier. The application is, therefore, rejected.

As the mother and wife of the applicant live in Delhi and the mother is a cancer patient, the Railway authorities may consider the representation of the applicant on humanitarian grounds.

There will be no orders as to costs.


(B.C. MATHUR)
Vice-Chairman.

17.11.88