

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.155/2020

New Delhi, this the 10th day of September, 2020

(Through Video Conferencing)

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. A.K. Bishnoi, Member (A)**

Shri Sunil Siwach, Age-38, Group-C
Health & Malaria Inspector
Office of CHI
Railway Station Jind Jn.
Northern Railway
r/o 75-A, Guard Line
Jind Jn.

... Applicant

(through Ms. Meenu Mainee)

Versus

Union of India : Through

1. Secretary
Railway Board
Ministry of Railways
Rail Bhawan, Rafi Marg,
New Delhi
2. General Manager
Northern Railway
Baroda House, New Delhi
3. Divisional Railway Manager
Northern Railway
State Entry Road, New Delhi
4. Divisional Personnel Officer
Northern Railway
State Entry Road, New Delhi
5. Chief Medical Superintendent
Northern Railway
Delhi Division Railway Hospital
S.P. Mukherjee Marg Delhi

... Respondents

(through Sh. Satpal Singh)

: O R D E R (ORAL) :**Justice L. Narasimha Reddy, Chairman:**

The applicant is working as Health and Medical Inspector in the Northern Railway. He was working at the Jhind Junction/ Railway Station. Through an order dated 26.12.2019 passed by the Divisional Personal Manager, New Delhi he was transferred to the Railway Station Sonapat. This OA is filed challenging the order of transfer. The applicant contends that he is part of Medical Department of the Railways and the Commercial Department or Divisional Personal Manager have no right to transfer him.

2. On behalf of the respondents, counter affidavit and additional affidavits are filed. According to them, the transfer of Health and Medical Inspectors is governed by the Joint Procedure Orders (JPO) dated 31.07.2013 and according to that transfer of such employees is done only by Commercial Department. It is also stated that the applicant was transferred to Jhind only by Commercial Department and in fact he made a request for mutual transfer to the same authority, and that it is not open for him to contend otherwise.

3. In his rejoinder, the applicant pleaded that though the JPO was framed by the Northern Railway, the Ministry of Railways has taken a decision in the year 2019 providing for

control of the Medical Department on the employees, similar to the applicants and that the impugned order cannot be sustained.

4. We heard Ms.Meenu Mainee, learned counsel for the applicant and Mr. Satpal Singh, learned counsel for the respondents through video conferencing.

5. The applicant is working at Jhind, since the year 2014. He is now transferred to Sonapat by the Divisional Personal Officer i.e. by the Commercial Department. It is not in dispute that the transfer was effected by the Commercial Department. The principal ground urged by the applicant is that, he is part of the Medical Department and the Commercial Department cannot transfer him.

6. The argument may tend to be acceptable, if one goes by the description of the posts. The fact however remains that the Northern Railway has issued the JPO on 31.07.2013. Through this, the cleaning activities in the stations are transferred to the Commercial Department. The Health and Medical Inspectors form part of this establishment.

Apart from that, there is intrinsic evidence and proof in the case of the applicant himself. On 02.02.2014 he was transferred from Jhind Colony to Jhind Station by the same authority, who passed the present impugned order. Another

aspect is that the applicant submitted a representation along with another employee by name Mr.Rakesh Kumar, for mutual transfer, to the Commercial Department itself.

7. Reliance is placed by the applicant by the applicant upon an order dated 07.01.2019 issued by the Ministry of Railways. It is about the preparation of ACRs and other administrative control of the different categories of the employees of the Health Department. There is nothing in it to suggest that the JPO of 2013 issued by the Northern Railway was withdrawn or modified. On the other hand the Northern Railway has reiterated the same, in their recent communication dated 21.01.2019. The relevant paragraph reads as under :

“In compliance of Board’s instructions cited under reference, a Joint Procedure Order was issued by this Railway jointly by Commercial & Medical department on 31.07.2013 & 28.11.2013 wherein it was decided that Health & Malaria Inspectors who are posted in stations for sanitation work will function under the administrative control of the Commercial Department only. Transfer of CHI/His within the area under the Commercial Department will be done by the Commercial Officer. In case any transfer is to be done from station to colony/hospital and vice versa, it should be done by CMS in consultation with Sr.DCM. However, the His so placed under the control of Commercial Department will continue to be part of their cadre with Medical Department for purpose of promotions/advancement.”

8. The applicant who was infact transferred by the Commercial Department itself in the year 2014 cannot now turn around and challenge the competence of the authority who issued the impugned transfer order. Though it is stated

that a letter was issued by the Medical Department to the effect that there is no post of Medical Inspector at Sonapat, we do not take that into account. The superior administration of the Northern Railways needs to ensure that the Commercial Department and Medical Department work in tandem and they do not encourage indiscipline by exhibiting conflicting views.

9. The OA is dismissed accordingly. There shall be no order as to costs.

(A.K.BISHNOI)
MEMBER (A)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

Sd/akshaya/