

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/21/474/2020

HYDERABAD, this the 11th day of September, 2020

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

Mr. MA. Rahim, Gr.B,
S/o. MA. Razack,
Aged about 59 years,
Occ: CCSR/SNF,
O/o. Station Master,
Sanathnagar Railway Station,
S.C Railway, Secunderabad.

... Applicant

(By Advocate: Mr. K. Sudhakar Reddy)

Vs.

1. Union of India,
Ministry of Railways rep. by its
General Manager,
South Central Railway,
Rail Nilayam,
III floor, Secunderabad – 500 071.
2. The Divisional Railway Manager,
Personnel Branch, 4th floor,
Sanchalan Bhavan,
South Central Railway,
Secunderabad – 500 071.
3. The Senior Divisional Commercial Manager,
4th floor, Sanchalan Bhavan,
South Central Railway,
Secunderabad – 500 071.

... Respondents

(By Advocate: Mrs. Vijaya Sagi, SC for Railways)

O R D E R (ORAL)**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

Through Video Conferencing :

The O.A. has been filed, challenging the transfer of the applicant from Sanathnagar Railway Station to Lingampally Railway Station.

2. The brief facts of the case are that the applicant is working as CCSR/SNF in Sanathnagar Railway Station of the respondent's organization. He is due to retire w.e.f. 31.03.2021. The Railway Board has issued an order on 07.08.2020 instructing all the subordinate Units not to transfer staff till 31.03.2021 in view of the prevalent Covid-19 situation. However, the respondents are giving effect to the transfer order issued to the applicant in 2018, intending to move him to Lingampally. Aggrieved over the same, the O.A has been filed.

3. The contentions of the applicant are that he should not be relieved as per the Railway Board order dated 31.03.2021. Besides, he is retiring in 7 months. Further, he has made representations on 11.7.2020 & 21.8.2020 but of no avail.

4. Respondents have filed reply statement wherein they stated that the transfer order was issued to the applicant in the year 2018 before the advent of Corona. The applicant sought to defer his transfer for short periods on different grounds. The respondents considered the same on grounds of health, children's marriage, etc. The post being sensitive, as per transfer guidelines, the applicant has to be rotated and, therefore, he has been posted to another position at Lingampally within the city limits of Hyderabad. The



applicant, when ordered to be relieved, did not do so but went on leave and filed the O.A. The Hon'ble Supreme Court observed that the Courts should not interfere in transfer orders and that in case the rules are violated, employees can approach the superior authorities for redressal of their grievance.

5. Heard Sri K. Sudhaker Reddy, learned counsel for the applicant and Smt. Vijaya Sagi, learned Standing Counsel for the respondents and perused the pleadings on record.

6. As seen from the records, OA and the reply statement, it is seen that the applicant is due for retirement on 31.03.2021. Another six months' service is only left for him. The Railway Board's order RB 17/2012 has a compilation of instructions relating to the respondent's organization transfer guidelines. In the compilation, the letter dated 14.10.1970 of the respondent's organization states that any employee, who is due for retirement within the next two years, should not be transferred, if there are no serious complaints against the concerned. The attempt of the respondents to shift the applicant would go against the Railway Board instructions referred to. The reply statement does not speak of any complaints against the applicant. Besides, the respondents, though they have transferred the applicant in the year 2018, on their own volition, deferred the relief of the applicant for different reasons. Having done so on so many occasions, it is difficult to understand as to why they are insisting that the applicant should be relieved for the new post at this juncture of time, when he has only six months to go for retirement. The Hon'ble Supreme Court's judgement refers to non-interference of Courts in transfer orders. But the Hon'ble Supreme Court has also observed that in

case the transfer guidelines are violated or if the transfer is malafide in fact or law, then the Courts can interfere to ensure justice. In the instant case, we see that the respondents themselves have issued an order to the effect that due to the Corona pandemic, no employee should be transferred till 31.03.2021. Besides, it is their own policy that employees, who are retiring within two years, should not be displaced on account of transfer. Therefore, both the guidelines have been violated by the respondents. This can be construed as malice in facts. However, learned counsel for the respondents has fairly conceded that the applicant would be retained at Sanathnagar but he will be asked to hold another post since his post is already occupied by another employee of the respondent's organization. This fact was contested by the learned counsel for the applicant. However, the applicant should not have any objection to hold any post because his main interest is to remain in Sanathnagar till his retirement.

7. In view of the above facts, we direct the respondents to allow the applicant to continue to work in Sanathnagar Railway Station till his retirement in view of the Railway Board guidelines regarding transfers and also in view of the latest Corona situation. However, the applicant can be posted to any equivalent post, deemed fit by the respondents.

With the above direction, the O.A. is allowed to the extent indicated. No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(ASHISH KALIA)
MEMBER(JUDL.)

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