

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.52/2020

Reserved on :04.02.2021
Pronounced on: 05.02.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs. Hina P. Shah, Member (J)**

Smt. Purnima Sharma w/o Sh.Rajendra Kumar Sharma, Advocate aged 53 years, resident of 168-AA/11, Near Secondary School, Kundan Nagar, Ajmer, presently posted as Office Superintendent (Group-C) at Carriage Store, North Western Railway, Ajmer-305001 (Mob.No.95888-738503).

...Applicant.

(By Advocate: Shri Sunil Samadaria)

Versus

1. Union of India through it's General Manager, North Western Railways, Head Quarter Office, Near Jawahar Circle, Jaipur – 302018.
2. Deputy Material Manager (Establishment), Department of Stores, NWR, Ajmer-305001.

...Respondents.

(By Advocate: Shri Indresh Sharma)

ORDER

Per: Dinesh Sharma, Member (A):

This OA is for quashing and setting aside the order dated 13.01.2020 whereby the applicant has been transferred from Carriage Store, Ajmer to Diesel Depot, Abu Road. The grounds of challenge, *inter alia*, are that the order is illegal and invalid, the applicant is a woman with

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various medical conditions deserving sympathetic consideration, she has been subjected to repeated transfers while others have not, and the transfer which is by way of punishment violates legal and administrative norms.

2. The respondents have denied the allegations. Citing various decisions of the Hon'ble Apex Court (**B. Varadha Rao vs. State of Karnataka & Others, Shilpi Bose vs. State of Bihar, Union of India vs. N.P.Thomas, Union of India vs. S.L. Abbas, Rajender Roy vs. Union of India, Ramadhar Pandey vs. State of UP & Others, 1993 Supp.(3) SCC 35, N.K.Singh vs. Union of India & Others, Chief General Manager (Tel.) N.E. Telecom Circle vs. Rajendra Ch. Bhattarcharjee, State of U.P. vs. Dr. R.N.Prasad, 1995 (Supp) 2 SCC 151, Union of India and Ors. Vs. Ganesh Dass Singh, Abani Kante Ray vs. State of Orissa, 1995 (Supp) 4 SCC 169, Laxmi Narain Mehar vs. Union of India, State of U.P. vs. Ashok Kumar Saxena, National Hydroelectric Power Corporation Ltd. vs. Shri Bhagwan, Public Services Tribunal Bar Association vs. State of U.P. & Ors., State of U.P. vs. Siya Ram and Union of India vs. Janardhan Debanath**), it is stated that the courts should not interfere in orders of transfers unless these are passed with malice or in violation of the statutory provisions. It is stated that the applicant

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has remained in Ajmer since her joining duty in 1997. She was transferred to Abu Road after 18 years of service (in 2014) and came back to Ajmer on deputation in the year 2015, she remained till the end of her deputation. She was again transferred back to Ajmer in the year 2017 and has remained at the same station since then, though at various posts. The current transfer is by the competent authority, for administrative reasons, and there is nothing arbitrary or wrong in it. It is stated that the respondent is applying the same yardstick to all the employees and the respondents have not discriminated against the applicant.

3. No rejoinder has been filed. The case was finally heard through video conferencing on 04.02.2021.

4. We have gone through the pleadings and heard the arguments of the learned counsels of both the parties. This is a matter of transfer of an employee where, as has been clearly established by various rulings of the Hon'ble Apex Court (cited by the respondents and referred to above in para 2), courts or tribunals should not interfere unless there are strong reasons e.g. malice, violation of rules or guidelines or arbitrariness. The applicant has not even quoted which rules or guidelines have been violated in her transfer. Besides alleging repeated transfers, the other main

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ground for challenging the transfer, most vehemently argued by the learned counsel for the applicant, is that she has been treated differently from others, naming four of them. Looking at the facts of this case, we find that the applicant has not been subjected to repeated transfers involving change of place. Most of her transfers (involving change of place) have been either on promotion or in order to accommodate her own request to keep her in Ajmer. Any change of posting within the same station should not be treated as displacement and an employee has no right to be kept in the same post. The applicant has not produced anything to substantiate any imputation of malice by the respondents. An allegation that some persons have not been transferred while she has been, cannot, even if true, by itself be taken as a proof of malice against her.

5. We, for the reasons stated above, do not think it is appropriate for this Tribunal to interfere in this matter of Transfer. The OA, is therefore, not allowed. The interim order issued by this Tribunal on 24.01.2020 is vacated. No costs.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

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