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In the Central Administrative Tribunal
Principal Bench, New Delhi.

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Date of decision: 9.7.1990.

Regn. No. O.A. 1298/90.

...

Suresh Chand Yadav & Ors. ... Applicants

Vs.

Divisional Rly. Manager
& Ors.

For the applicants: Mrs. Urmila Kapoor, Counsel with
Miss Meenakshi, counsel.

For the respondents: Shri O.N. Moolri, counsel.

CORAM.

Hon'ble Mr. T.S. Oberoi, Member (J)

Hon'ble Mr. I.K. Rasgotra, Member (A).

JUDGMENT (oral)

(delivered by Hon'ble Shri T.S. Oberoi, Member).

The applicants have filed this application under Section 19 of the Administrative Tribunals Act, 1985, challenging their transfer ordered vide communication dated 19.6.1990 (Annexure A-1). The applicants belong to the Ticket Checking branch of Jaipur Division of the Western Railway. This application came up for hearing on 6.7.1990 when at the request of the learned counsel for the respondents, it was adjourned to enable him to seek instructions from the respondents. The learned counsel for the respondents has filed written statement raising certain preliminary objections with regard to admission of the present O.A. A copy of the same has also been furnished to the learned counsel for the

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applicants.

2. The learned counsel for the respondents, precisely, based his objection firstly on the ground that the present application is not maintainable as the same has not been filed in consonance with the provisions contained in Rule 4 (5) (a) or Rule 4 (5) (b) of the Central Administrative Tribunal (Procedure) Rules, 1987. He further submitted that the application has not been properly authenticated by all the applicants and, therefore, this O.A. cannot ^{even} be taken as having been filed individually, more so, the requisite fee having not been paid by all of them. Shri Moolri also pointed out that the main ground taken up in the present O.A. affects only a few of the applicants, and is not available, commonly, to all the applicants, and thus, at any rate, this can be taken on personal grounds affecting only a few applicants.

3. The learned counsel for the respondents further pleaded that the alleged delay in issuance of the order of transfer in the case of the applicants, hardly involves any delay, as the deadline for the implementation of the transfer order is 15th June every year, whereas, in the instant case, the order was issued on 19.6.1990, and even then, the intervening few days were holidays like Saturday, Sunday etc.

4. We have heard the learned counsel for the applicants, who met the above objections, raised by the learned counsel for the respondents, by putting forth that the application, even though not duly verified by all


the applicants individually, is, nevertheless, supported by a power of attorney signed by all the applicants.

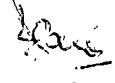
In any case, she submitted that this shortfall would be made up in due course, as the same, because of the urgency, could not be met with before filing of the O.A. The learned counsel for the applicants vehemently urged that the main transfer order, if permitted to be put into effect, would entail lot of difficulty in the matter of education of the applicants' children and would upset their educational curricula on account of the delay in issuing the impugned transfer order. The learned counsel also pleaded that the main order is based on pick & choose practice, rather than on a uniform norm or the standard policy, which the respondents are supposed to adhere to.

5. We have given our careful consideration to the rival contentions, as briefly mentioned above. We also have perused the application, documents filed therewith and also the reply listing out the preliminary objections raised on behalf of the respondents. After giving our careful thought to the whole aspect of the case, we are of the view that the first objection with regard to the maintainability of the present, O.A., on the basis of the same having been not duly signed by all the applicants, and non-compliance with the provisions of Rule 4 (5) (a) or

Rule 4 (5)(b) of the Central Administrative Tribunal (Procedure) Rules, 1987, is not without force, particularly, as the ground regarding difficulty faced by the applicants in the education of the children of some of the applicants, relates only to a few of them. There is, to our mind, hardly any common ground to treat the application as entertainable under the aforesaid Rules. In any case, any of the applicants, who is genuinely affected by the impugned transfer order on the ground of inconvenience or difficulty with regard to the education of his children, may come up before us separately by way of an application to that effect. Further, it may be observed that the transfer is an essential attribute of Government service and from that stand-point also, we do not feel inclined to interfere in the matter, even at this stage, by way of an interim order. It may also be observed that the delay in the issuance of the impugned transfer order, as pointed out and by the learned counsel for the applicants, as rebutted by the learned counsel for the respondents, involves hardly any mentionable delay, being only of two or three days.

6. As a result of the foregoing, we hold the application as not maintainable and reject the same at the stage of admission itself. There will be no order as to costs.


(I.K. Rasgotra)
Member (A) 9/7/90

 9/7/90
(T.S. Oberoi)
Member (J)