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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI

O.A. No. 2013 of 1991.

Date: 20.1.1992.

SHRI ABDUL SAMAD

...APPLICANT

v/s.

UNION OF INDIA & ANOTHER

...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J).

SHRI S.K. SAWHNEY

...COUNSEL FOR THE
APPLICANT

SHRI B.S. MANI

...COUNSEL FOR THE
RESPONDENTS.

JUDGEMENT (ORAL)

In this OA, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged his transfer from Harthala Railway Station to Babugarh Railway Station, vide order dated 16-5-91 (annexure 'A-I'). The applicant, after his appointment on compassionate grounds, was posted at Harthala Railway Station, at his own request. However, there was some incident between him and the Station Master In-charge, on 8-3-91, at Harthala, about which an inquiry was held, and both the applicant as well as the Station Master, were issued warning (annexure 'A-II', page 9 of the paper-book). Later on, vide order dated 16-5-91 (annexure 'A-I'), the applicant with two other Assistant Station Masters of the same Railway Station, were transferred to other stations. Transfers of two other Assistant Station Masters were, however, later pending and are stated to have been eventually cancelled, whereas applicant's transfer order remained in force. He filed a representation to his departmental officers, pleading for cancellation of the same, but the same was rejected (annexure 'A-VIII', page 16 of the paper-book). After that, the

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present O.A. was filed, on which the applicant's transfer order, vide impugned order (annexure A-I) was stayed, firstly for a period of two weeks and later, extended from time to time till date.

2. In the counter filed on behalf of the respondents, the applicant's prayer for quashing of the impugned order of transfer, was resisted.

3. Rejoinder has also been filed on behalf of the applicant reiterating the submissions made in the O.A.

4. I have also heard the learned counsel for the parties and have perused the material on record.

5. The learned counsel for the applicant, by referring to a number of citations, pleaded that, as is evident from the transfer pending in respect of two other Assistant Station Masters, transferred simultaneously from Marthala to other stations, there is a discrimination involved in case of the applicant, as his request for deferring his transfer or cancellation thereof, was not acceded to. The learned counsel for the applicant also pressed for cancellation of the transfer order vide the impugned order on the ground that it was at applicant's own request that he was posted at the Marthala Railway [redacted] Station, and in view of his family liabilities in respect of three children, of the ages of two to six years, and also his younger sister and a brother, who are both school-going, the transfer at this juncture, involves great hardship to the applicant.

6. The learned counsel for the respondents opposed the submissions made by the learned counsel for the applicant, submitting that it was a transfer on administrative grounds, and the applicant being on a transferable post, this Tribunal should not ordinarily interfere in the transfer, particularly when his request has been duly considered by the authorities concerned, but could not be acceded to, due to administrative reasons.

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The learned counsel for the respondents also placed reliance on certain authorities, also referred to in para 14 of the counter. The learned counsel for the respondents also pointed out that there is no discrimination under Article 14 and 16 of the Constitution of India involved in this case, as the other two, whose transfers were pending/cancelled, were office-bearers of the recognised unions, and, therefore, a particular procedure had to be adopted before effecting the transfer in case of such functionaries, which is not the case in respect of the applicant. As regards bulk of other transfers numbering 177, which too, according to the learned counsel for the applicant, have been stayed, learned counsel for the respondents pleaded that these transfers have been stayed only upto 31-3-1992, whereas the applicant had not brought to the notice of the concerned authorities in his representation, any specific difficulties regarding his own children, or those of his sister/brother.

7. I have kept in view the rival contentions, as briefly discussed above. The law on the subject of transfers is abundantly clear. In the present case, the transfer has been made on administrative grounds. A request by the applicant to his departmental authorities, is stated to have been considered, but declined. In the circumstances, I am not inclined to quash the impugned order of transfer, in the present case. However, as the applicant is stated to have joined, at his present place, only a few days back, by virtue of the stay granted by this Tribunal, it will be in the interest of justice, if he is ordered to be shifted to his place of posting, after 31st March, 1992.

8. The learned counsel for the respondents pointed out that the impugned order was of May 16, 1991, whereas, in spite of a stay order having been obtained by the applicant,

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he joined at Marthala, only a few days back, and so, this has given rise to a difficulty regarding regularisation of the period in between. The plea of the learned counsel for the applicant in this regard was that the applicant was not allowed to resume duty, rather than the absence was of his making. Keeping in view this position, the period between the order of his transfer till his resuming at Marthala be regularised by grant of appropriate leave, to the credit of the applicant.

The O.A. is decided, on the above lines, with no order as to costs.

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(T.S. Oberoi)
MEMBER (J)
20-1-1992.

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