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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.2981 of 2004

New Delhi, this the 20th day of January, 2006

HON'BLE SHRI SHANKER RAJU, MEBER (J)

Amarjeet Kumar
S/o Shri A. Barmabas,
Working as Male Staff Nurse,
Northern Railway, Hospital,
Oak Grove School, Jharipani,
Dehradun.

.....Applicant.

(By Advocate : Shri Yogesh Sharma)

VERSUS

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi.
2. The General Manager,
Northern Railway, Baroda House, New Delhi.
3. The Divisional Railway Manager
Northern Railway, DRM Office,
Muradabad.Respondents.

(By Advocate : Shri Rajender Khatter)

ORDER (ORAL)

Heard learned counsel.

2. The order passed on 6.8.2004 whereby the applicant while working as Male Staff Nurse at Jharipani was transferred on administrative ground as per 'PNM' decision of NRMU and posted at Divisional Hospital, CMS, Muradabad and as far as Smt. Aruna Gupta, Staff Nurse, in the same order whereby, on her request, she has been posted at Jhanipani is being assailed by the applicant in OA 1941/2004. By an order dated 11.8.2004, OA 1941/2004 was disposed of with a direction to the respondents to consider the representation and treat the OA as such and pass an order which

ultimately culminated into an order passed by the respondents on 19.11.2004 rejected the request of the applicant.

3. Learned counsel of the applicant stated that what has been projected by Murdabad Unit is that there was vacancy for Female Staff Nurse whereas one Female Staff Nurse was already working there. As such transfer of Smt. Aruna Gupta on her request at Jharipani that too by displacing applicant by stating that it is on administrative ground is not tenable in the eyes of law. It is further contended that transfer of the applicant is not on administrative grounds; as such it is punitive in nature. Now the transfer order of the applicant, which has been stayed and the applicant has been working at the erstwhile place, which is subject to the outcome of the present OA.

4. Respondents' counsel Shri Rajender Khatter vehemently opposed the contentions of the applicant and stated that transfer of the applicant is not affected on the basis of any complaint or is not punitive and is on administrative exigency as per Rule 226 of IREC.

5. I have carefully considered the rival contentions of the parties and perused the material available on record.

6. Though in the matter of transfer, the scope of judicial review is very limited but when it is found that administrative exigency had not warranted the transfer, which shows the extent, the transfer is to be recalled. As one Female Staff Nurse is already available from where the applicant has been transferred to accommodate Smt. Aruna Gupta. In the wake of cancellation of transfer order of Smt. Aruna Gupta, this OA stands disposed of with a direction to the respondent No.1 – General Manager, Northern Railway, Baroda House, New Delhi to reconsider the case of the applicant for retention at his old place of posting by canceling the impugned transfer

order. This shall be done within a period of one month from the date of receipt of a copy of this order. Till then applicant's posting shall not be disturbed. No costs.

S. Raju
(SHANKER RAJU)
MEMBER (J)

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