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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 1941/2004

New Delhi, this the 11th day of August, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

Amarjeet Kumar
S/o Sh. 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 Hosue, New Delhi
2. The Divisional Railway Manager,
Northern Railway, DRM Office,
Muradabad.

...Respondents

ORDER (ORAL)

Heard the learned counsel for the applicant who has submitted that the applicant has been transferred on the basis of a complaint by one Shri Rajinder Singh Mehta who is Assistant Branch Secretary of Northern Railway M. Union, as submitted by the applicant in paragraph 4.4 of the OA. It has been submitted in the said paragraph that the matter had not been investigated properly before the applicant was transferred on the basis of the said complaint. The learned counsel has also submitted that possibly the applicant has been transferred for the reasons that the respondents wanted to accommodate the request of Smt. Aruna Gupta working under CMS/MS for her transfer to the place of the applicant. In both the situations the learned counsel for the applicant has submitted that the action of the respondents has adversely affected the interest of the applicant for no fault of his and that the same is arbitrary and discriminatory.

2. In support of his submission he has referred to the decisions of Principal Bench of the Tribunal in OA No. 191/2003 as passed on 23-6-2003 in which, among other things, it has been

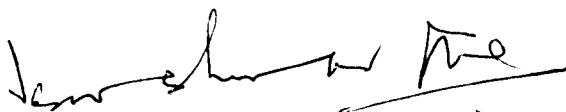
Sh. Mehta

held that transfer is not a remedy when disciplinary proceedings are to be taken on any act of misconduct allegedly committed by applicant. He has also submitted that the applicant submitted a detailed representation in the matter pointing out the justice which has been done to him vide his letter dated 9-8-2004 (Annexure-A2) addressed to the General Manager, Northern Railway, Baroda House, New Delhi. The reply to the said representation is still awaited.

3. Learned counsel for the applicant has prayed that in view of the fact that the matter is still pending with the respondents and also that a prayer has been made for Interim Relief that her representation to be considered by the respondents and dispose of by an early date and that during the period of pendency of the said consideration the operation of the impugned order dated 6-8-2004 for the transfer of applicant be stayed.

4. The submissions submitted by the applicant in this OA and also what has been submitted by the learned counsel, I am of the considered opinion that the justice can be met if this OA is disposed of at the admission stage with the direction to the respondents to consider and dispose of the representation which has been filed by the applicant to the General Manager, Northern Railway, Baroda House, New Delhi on 9-8-2004 and also this OA treating the same as supplementary application representing applicant and to dispose of by issuing a speaking order within a period of one month from the receipt of a copy of this order. As applicant has not been relieved as per the transfer orders and also the matter is in pending consideration of the respondents, it is also directed to the respondents that not to operate their order dated 6-8-2004 for such time that they have considered the representation and this OA as directed above and dispose them of, with reference to the relevant instructions/rules as also decisions as referred hereinabove. With this OA stands disposed of.

5. Issue DASTI



(SARWESHWAR JHA)
ADMINISTRATIVE MEMBER

/gkk/