

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA.2039/92

Date of Decision: 23.3.93.

Shri R.D. Sharma Counsel for the applicant

Vs.

Union of India Respondents

Shri P.K. Sharma Counsel for the Applicant

Shri Rajesh Counsel for the respdts.

JUDGEMENT(Oral)

(delivered by Hon.Member Shri C.J.Roy, Member (J))

Heard the learned counsel for both parties. The applicant was transferred from IOW/Special/TKG Office and posted in Land Cell under D.S.E./Land, DRM Office, New Delhi vide letter No.265-E/44/Misc./P4 dated 27.3.91 (Annexure A-5). The applicant claims that there are work charged posts sanctioned and he should have been exhausted against these posts. On 15.11.91, by Annexure A1, the respondents have transferred the applicant who was at that time working as officiating clerk in Engineering department in DRM Office, New Delhi and was directed to join DENGhaziabad for his further posting against one of the vacancies caused due to reversion of M>C>C (Annexure A1). The applicant claims that he has received this letter. The applicant made some representation that he has gone there and that there is no post vacant and he also files across the Bench some correspondence with reference to his particular transfer that he was a patient and having heart problems and that

his transfer may be rescinded. The applicant possess the transfer order and claims the relief with reference to para 8 of the application.

2. The respondents have filed the counter stating that the applicant was rendered surplus and in the interest of justice and administrative reasons, he was transferred to DEN-Ghaziabad and that his transfer was not malafide and arbitrary. The respondents also deny the contention of the applicant that the transfer of the applicant has no relation with the case of M.C.C. After the transfer order was passed, the counter further states, that the applicant has met Additional Divisional Railway Manager, New Delhi who after listening his grievances referred him to Divisional Superintendent Engineering/Coordination for further action as deemed fit, but the applicant has not taken any follow up action. The counter further states that the applicant was absent w.e.f. 20.11.91 and therefore he is not entitled to for any payment of salary as per the rules. After the transfer order dated 15.11.91 was issue, he did not report to the place of posting since the pay of the applicant has to be charged according to the place of posting. The plea made by the applicant that he is not paid salary cannot be sustained.

3. I have heard the learned counsel for both parties and perused the records carefully. It is not denied that the applicant has not received transfer order dated 15.11.91. It is also not denied that he has not joined duty there. Without joining the duty at the place of posting, the applicant cannot make out the grievance that his salary cannot be paid.

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4. The Tribunal cannot interfere in the matter of transfers which are made in the administrative exigencies, by pursuing of the decision of the Hon. Supreme Court in the case of Shilpi Bose Versus State Bank of Bihar, AIR 1991 (SC) 532 and Kirtania Vs. Union of India, 1989 (SC) (LS) 481. In Gujarat Electricity Board Versus Atma Ram, AIR 1989 (SC) 1433, the Supreme Court held that when ever the applicant is transferred, he should go and join and then only made representation otherwise he is liable for disciplinary proceedings. In view of the above guidelines laid down by the Hon. Supreme Court and also the trivial ground raised by the applicant that frequent transfers which are not the ground for interference, I am not persuaded that the transfer is bad in law.

5. In the conspectus of the above facts and circumstances of the case, the respondents are directed that in case the applicant goes and joins the duty there at the place of posting and makes a representation, his representation be considered sympathetically in view of his heart ailments and other personal problems, for payment of arrears of salary and treat the period of leave for which he has not reported in accordance with the rules.

6. The case is accordingly disposed of with no order as to costs.

*W.R.O.Y*  
(C.J. ROY)

Member(J)