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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No.2271/92.

Date of decision 7/12/92

Shri N.N. Behl

.. Applicant

V/s

Union of India & Ors. ..

Respondents

CORAM:

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

The Hon'ble Member Mr. I.P. Singh, Member (A)

For the Applicant .. Shri G.D. Gupta, counsel.

For the Respondents .. Shri Shaukat Matto, counsel.

(1) Whether Reporters of the local papers may be allowed to see the Judgement ?

(2) To be referred to the Reporter or not ?

JUDGEMENT (ORAL)

✓ Delivered by Mr. I.P. Gupta, Member (A) ✓

In this application the applicant has requested for quashing his transfer orders dated 1st June, 1992 transferring him to Jodhpur. The Ld. counsel for the applicant contended that the applicant was working in the North Eastern Railway but in March 1981 due to his wife's illness

he got himself transferred to Northern Railway and accepted bottom seniority. In fact, his wife later expired in 1984 leaving behind five minor daughters of whom ^{some} ~~three~~ are still minors.

2. The Ld. counsel further drew our attention to respondent's letter dated 14.3.74 wherein it was stated that 'on Northern Railway it has been decided that transfer of staff from one station to another in the same grade should not, as a matter of principle, be made within two years of the date of superannuation.' The applicant is due to retire on 31st May 1994 and the transfer order was issued on 1st June 1992 and, therefore, according to the Ld. counsel, the transfer was effected within a period of two years. The Ld. counsel further referred to the counter where it was stated that 'in case the applicant was aggrieved by the impugned order he was at liberty to go back to his parent division where he has lien. He contended that he is in Northern Railway since he was transferred from North East Railway to Northern Railway quite some time back and, in fact,

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the provisional seniority list of Delhi Division (Annexure A-2) would show that his name has been included in the seniority list of Delhi Division and against the remarks column it has been added 'join ^{ed} from NE Rly. Lien fixed by communication dated 21.7.1983'.

3. The Ld. Counsel for the respondents said that the applicant was working in the construction division of Delhi and the staff of construction division are required to ^{shift} ~~sit~~ from one station to another according to shifting nature of the construction. Therefore, the instructions regarding non-transfer within a period of two years were not applicable to the staff of construction division, who obviously have to move with the completion of the work.

4. The Ld. counsel for the respondents further argued that the applicant was holding lien in the North Eastern Railways and not in the Northern Railway and, therefore, the counter implied that he would seek his transfer in the North Eastern Railway.

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5. We have gone through the pleadings and considered the arguments of both the counsels. While it is ^{said} ~~true~~ _{me} that the applicant was transferred from North Eastern Railway to Northern Railway at his own request on compassionate grounds with bottom seniority, there is nothing to show that he came to Northern Railway only for a short period on the construction side. If that were so, the reasons for including him in the seniority list of Delhi Division (Annexure A-2) cannot be well explained. Further, by a communication dated 1.7.1983 from the General Manager, MTP to the General Manager (P. Northern Railway), it was enquired as to what date of lien of the applicant was on Northern Railway. Thus Annexure A-2 i.e. the provisional seniority list and the communication dated 1.7.1983 referred to above leads us to conclude that he was transferred to Delhi Division of Northern Rlys., in the absence of any communication to the contrary or in the absence of any communication to show that he was only transferred for a short period to the construction side of Northern Rlys.

6. We would not go into the question of the respondent's

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letter datted dated 14th March 1974 laying down the policy for non-transfer within two years of retirement on account of avornment of the Ld. Counsel for the respondents that this is not applicant^{ble} to the staff on the construction side.

7. However, we do learn from the counter that the applicant can revert to his parent division and his parent division in view of what has been said above should be Northern Railways. Furthermore, the respondents have shown ^{that} ~~that~~ ^{was} compassion in this case earlier ^L given to him by accommodating him in the Northern Railways by bringing him from North Eastern Railway and it is naturally expected that this compassion would continue to be shown to him during the end of his career.

8. Since the applicant can revert to his parent division, we direct that his transfer on the construction side to Jodhpur be cancelled and the respondents should consider accommodating the applicant in any assignment commensurate

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with his status and salary at Delhi in Delhi Division
of Northern Railways.

8. With the aforesaid direction and order, the O.A.

is disposed of with no order as to costs.

I. P. Gupta
I.P. Gupta
Member (A) 7/12/92

Ram Pal Singh
Ram Pal Singh
Vice-Chairman (J) 11/12/92