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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 384/92

DECIDED ON : 29.6.1992

Smt. Rukma Bai

... Applicant

-Versus-

Union of India & Ors.

... Respondents

CORAM : THE HON'BLE SHRI P. C. JAIN, MEMBER (A)

Applicant through Shri V. P. Sharma, Counsel
Shri H. K. Gangwani, Counsel for Respondents

J U D G M E N T (ORAL)

Hon'ble Shri P. C. Jain, Member (A) :-

The applicant who was posted as a Safaiwali at Railway Station, Palwel (Haryana) since she joined her service about 8/9 years back^{or} has assailed, in this application under section 19 of the Administrative Tribunals Act, 1985, her transfer to Jhansi (UP) vide impugned order dated 19.9.1991. The applicant has raised a number of grounds; the main ground being that the order of transfer has been passed by way of punishment and as no show cause notice has been issued to her, the same is illegal. That is also the only ground which has been urged before me by the learned counsel for the applicant.

2. The respondents have contested the O.A. and have also mentioned in their reply the background in which the order of transfer appears to have been passed, though the learned counsel for the respondents submitted that these facts have no relevance to the transfer of the applicant. The facts which are mentioned in para 4.4 of the counter affidavit are that the Railway staff at Palwel Railway Station made a joint complaint about her misbehaviour as well as of her husband when he happened to be

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with her at Palwal. Her husband is said to have come to Palwal in intoxicated condition and abused the Station Superintendent and created nuisance there. It is further stated that the husband, however, asked for apology in writing from the Dy. Station Superintendent on 5.9.1991 for his misbehaviour and for abusing in the intoxicated condition. It is also stated that the Area Officer, Faridabad, also reported against the applicant for disobeying the instructions issued by the Station Suptd., Palwal as well as by him. While stating these facts the case of the respondents is that the contention of the applicant that a complaint has been fabricated against her is not correct. It is also stated in the counter affidavit that the applicant joined at the new place of posting, viz., Jhansi on 13.12.1991 in pursuance of the impugned transfer order but having worked for a day left the place giving in writing that the work at Jhansi was too much for her to cope with. Learned counsel for the respondents submitted that she has been absenting from duty since then.

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

4. It is well settled that an order of transfer is not a punishment as such as it is not included in one of the punishments mentioned in the Railway Servants (Disciplinary & Appeal) Rules. It has, therefore, to be seen whether on the facts and in the circumstances of this case, there is any basis for drawing any conclusion that the impugned order of transfer is either malafide or arbitrary. The facts stated in the counter affidavit already referred to above, are even broadly correct and the transfer of the applicant cannot be said to be arbitrary or malafide. The contention of the respondents that it is in the

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administrative interest and for maintaining peace at Palwal Station within the staff there, cannot be ignored. Moreover, there is nothing on record before me to show that the applicant did not join at Jhansi on 13.12.1991 in pursuance of the impugned order. That being the case and the impugned transfer order having already been given effect to by the applicant herself, the O.A. has otherwise become infructuous. Be that as it may, the ground taken by the applicant that her husband is handicapped and, therefore, she has to live with him, is also not worth acceptance. Firstly, admittedly the applicant's husband, who is also a Safaiwala, has been posted at Ballabgarh, i.e., a Station different from Palwal, though the two stations may be near to each other, for the last four years. In spite of the husband's handicap of having an artificial leg, it does not appear to be the real reason as the husband has been going on his ^{own} ~~own~~ as he has either been living at Ballabgarh separately from the applicant or has been going to Ballabgarh on his own. Though the respondents have stated that the two have been living separately at two different stations and that the applicant does not wish to live with her husband, for lack of clear particulars in support thereof, it is not possible to give a finding on that aspect of the dispute between the parties. Secondly, the respondents have stated that the applicant was given a choice of transferring her husband to Jhansi where she has been transferred but she declined that option.

5. In the light of the foregoing discussion, it is not possible to find fault with the impugned order of transfer. However, both the applicant and her husband being low paid employees and having a large family, if the applicant makes a representation to the competent authority for her transfer from Jhansi to a place other than Palwal, it is expected that the competent

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authority shall consider the same sympathetically and if possible, keeping in view the interest of the administration and the public interest, her request can be considered for acceptance. With these observations, the O.A. is disposed of as being devoid of merit and the same is accordingly dismissed. Needless to state that the interim order passed on 28.2.1992 automatically stands vacated.

29/6/92
(P. C. Jain)
Member (A)

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