

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

(4)

OA 414/92

13.03.1992

SHRI R.S. CHAUHAN

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

HON'BLE SHRI J.P. SHARMA. MEMBER (J)

FOR THE APPLICANT

...SH.ANIS SUHRAWARDY

FOR THE RESPONDENTS

...SH.R.L. DHAWAN

JUDGEMENT (ORAL)
(DELIVERED BY HON'BLE SHRI J.P.SHARMA. MEMBER (J))

The applicant in this case has assailed the transfer order dt.12.12.1991 from the construction division, Tilak Bridge, New Delhi to ^{Dy.C.E} the construction ~~bridge at~~ Jodhpur. The applicant has assailed the transfer order on the ground firstly that he is not keeping good health because of ailments like diabetes, of heart etc., secondly that the ^{Completion of} work at the ^{Tilak} ~~bridge in~~ Tilak Bridge has not yet come to an end and thirdly that one Shri R.K.Goel has been instructional maliciously to get him transferred from Ghaziabad to Jodhpur. Fourthly, it is said that the Railway policy

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and guidelines are that where one has only left one and a half years to reach superannuation, then he should not be transferred. The learned counsel for the respondents in the reply filed to the application as well as in a supplementary reply to the rejoinder, asserted that the applicant on his own request was allowed to join at Delhi in the construction organisation as he has a lien on the Allahabad Division and in this connection in the supplementary reply, the respondents have relied on Annexures 1 and 2 where the applicant has not been given any benefit of transfer ~~by way of~~ ^{and further} TA etc. Further it is argued that it is not the applicant alone, but the whole of the staff has been transferred because the work for which they were posted ~~has been~~ ^{stands} completed and the staff has become almost surplus ~~and~~ ^{specifically} stated in paras 4.2 and 4.3 of the counter, one FWI Grade-II, FWI Grade-III, two permanent Mistries, 14 Mates and 389 Gangmen have been transferred. These gangmen who were transferred subsequently assailed their transfer order before CAT, Principal Bench and their applications were disposed of by the order dt.31.1.92

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where the transfer was not cancelled, but those persons were allowed to retain their seniority of Delhi Division. It is also pointed out that the applicant was earlier transferred in January, 1991 and he made a representation and on that representation, the applicant was retained under Deputy Chief Engineer, Tilak Bridge instead of being transferred to Digana. The respondents pointed out that now since the work has completed in the said organisation, so the applicant has to be moved out in the exigency of service and there is no malice attached to it.

During the conclusion of these arguments, the learned counsel for the respondents has filed a Memo dt.6.3.92 wherein the applicant, who was earlier transferred to Jodhpur Division has now been reverted back to his parent division, i.e., Allahabad Division and the copy of the same has also been given to the learned counsel for the applicant. In view of this fact, the order under challenge dt.12.12.91 stands withdrawn. In the present application, the applicant has only challenged the order dt.12.12.91.

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The learned counsel for the applicant has submitted that the notice of this Memo dt.6.3.1992 by which the applicant has been declared surplus from the construction organisation and reverted to the parent department, Allahabad Division, cannot be taken note of. The facts cannot be ignored. Facts have to be digested and if the applicant is still aggrieved by this order, then he has to take the proper course according to the law. What he has assailed before this Bench in this OA stands by virtue of subsequent action of the respondents allowed by the order dt.12.12.91 of transfer having become infructuous.

The Original Application is, therefore, disposed of as infructuous, leaving the parties to bear their own costs.

J.P. Sharma

(J.P. SHARMA)
MEMBER (J)

13.03.92

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