

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 10th day of January 2001.

Original Application no. 14 of 2001.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman

Hari Dutt Sharma,  
S/o Sri Mangalsen Sharma,  
R/o Qr. No. R-E/24 Railway West,  
Colony Rampur,  
Presently posted as Section Engineer,  
(P/Way) Northern Railway Rampur.

... Applicant

C/A Shri Sudhir Agarwal

Versus

1. Union of India through the General Manager,  
N. Rly., Baroda House, New Delhi.
2. The Divisional Railway Manager,  
N. Rly., Moradabad Division,  
Moradabad.
3. The Senior Divisional Personnel Officer,  
N. Rly., Moradabad Division,  
Moradabad.
4. The Divisional Engineer, N. Rly.,  
Bareilly.

... Respondents

C/Rs ...



... 2/-

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O R D E R(Oral)

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this OA under section 19 of the A.T. Act, 1985, the applicant has challenged the order dated 03.01.2001 by which he has been transferred as Section Engineer from Rampur to Bijnor. Learned counsel for the applicant has submitted that the applicant has been transferred to the vacant post of Senior Section Engineer, which has been down graded to a grade of Rs. 6500 - 10500 and as there was no post the order of transfer is contrary to rule 227 (a) of Indian Railway Establishment Code Vol I. The second objection is that the applicant has been asked to discharge the duties of Senior Section Engineer and the applicant's transfer is not to a post commensurate to the service. For this purpose learned counsel for the applicant has placed reliance in case of P.K. Chinnasamy Vs. Govt. of Tamil Nadu & Ors AIR 1988 SC 78. In this connection it has also been submitted that 3 persons are already working as Section Engineer at Bijnor and there was no sanctioned post available for the transfer of the applicant.

2. I have considered the submission of learned counsel for the applicant. I do not find any force. It is accepted that transfer is a condition of service and employee cannot object against the same. The only thing requires to be seen is, whether the order of



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transfer is contrary to any rule or it is arbitrary or malafide. Rule 227 (a) provides that a competent authority may transfer a railway servant from one post to another. The submission of learned counsel for the applicant that there is no post at Bijnor. This submission is not correct. The post of Senior Section Engineer, if down graded to the scale for which, the applicant is entitled, the post could become available without fresh order of creation of post. The applicant cannot have any exception against such <sup>arrangement of</sup> post. Whether the particular work requires three Section Engineers or four Section Engineers is also the discretion of the competent authority. The facts remains that the applicant has <sup>been</sup> put to any kind of disadvantage so far as his pay and other benefits are concerned. The submission of learned counsel for the applicant that the post of Senior Section Engineer is not commensurate to the status of applicant is also fallacious. The applicant has been <sup>adjusted to</sup> ~~advertisied~~ against the senior post and cannot be said that ~~he~~ does fit into his status. In the case of P.K. Chinnasamy, the position was just reverse before the Hon'ble Supreme Court. The judgment of Hon'ble Supreme Court cannot apply in the present case.

3. For the reasons stated above, I do not find any <sup>merit</sup> ~~material~~ in the OA. The OA is accordingly rejected. No order as to costs.

  
Vice-Chairman