

D. F. A.

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 11th day of Dec. 2001.

QUORUM : HON. MR. RAFIQUDDIN, J.M.

O.A. No. 850 of 2001.

1. Sri Roohullah a/a 47 years s/o Sri Muhibullah r/o 216/184/A1
Akbarpur, Allahabad... Applicant.

Counsel for applicant : Sri S. Agrawal.

Versus

1. Union of India, Ministry of Railways
through the General Manager, N.R., New Delhi.
2. The Divisional Railway Manager, N.R., Allahabad.
3. The Senior Divisional Operating Manager, N.R., Allahabad.
4. The Divisional Personnel Officer, N.R., Allahabad.
..... Respondents.

Counsel for respondents : Sri S.K. Rai.

ORDER (ORAL)

BY HON. MR. RAFIQUDDIN, J.M.

The applicant, who was working as Dy. S.S. at Allahabad Railway Station has been transferred to Bhadan vide order dated 10.2.2000 issued by the Senior Divisional Operating Manager, N.R., Allahabad, respondent No.3. It appears that the order dated 10.2.2000 was stayed at the request of the applicant on account of Kumbh Mela. It was further stayed till 31.5.2001. The copies of the orders dated 10.2.2000 and 23.3.2001 are annexed as A-I and A-II to this O.A. The applicant has challenged its validity on the ground that during the intervening period, one post of Dy.S.S. fell vacant at Allahabad Railway Station due to the retirement of one Sri Roshah Lal on 30.8.2000 and in view of the fact that his spouse is working as State Govt. employee in Allahabad the impugned transfer order is liable to be quashed. The applicant submitted his representation to the D.R.M., N.R., Allahabad (respondent No.2) requesting him to cancel the

transfer due to vacancy fallen by the retirement of Sri Roshan Lal. A copy of the order is annexed to this O.A. But the respondents are insisting the applicant to join at Bhadan.

2. I have heard the counsels for the parties.

3. It has been stated by the counsel for respondents that the transfer order of applicant dated 10.2.2000 was stayed by the authorities till 28.2.01 on the request of the applicant due to ongoing Kumbh Mela. Thereafter the same was further stayed till 31.5.2001 on the request of the applicant on humanitarian ground. The transfer order was not stayed by any order of the court. It is contended by the counsel for the respondents that it was, therefore, incumbent upon the applicant to join after 31.5.01. The applicant, however, did not choose to do so. The counsel for the applicant has cited "Prabhu Nath Singh Vs. Executive Engineer (1999) 3 Educational Service Case Page 1907, Allahabad" in which a single Judge of Hon'ble Allahabad High Court has observed that under the circumstances, the transfer order of the petitioner dated 10.7.96 and subsequent order dated 15.7.96 were stayed by an interim order passed by the High Court on 13.8.96. The order of transfer became meaningless and redundant by the passage of time. This order was passed on 24.9.99 i.e. almost after three years. Similar view was also expressed in another case namely Writ Petition No.25774/01 Dhamanand Joshi Vs. DIG where the petitioner was permitted without good and valid reasons to continue to work on some sensitive post, it was held that transfer order has not been given the effect for about one year and it lost efficacy and should not be allowed to stand.

4. I find that the facts of the present case are different. The respondents have not permitted the applicant to continue on the post. It was on the request of the applicant the transfer order was stayed till 31.5.2001. The transfer order was not stayed by any court or tribunal. Therefore, I do not consider that the original transfer

order has become redundant or ineffective.

5. As regards the question of the adjustment of applicant at Allahabad due to retirement of Sri Roshan Lal and the spouse of the applicant being State Govt. employee at Allahabad, these questions are to be considered by the respondents and the Tribunal cannot issue directions for cancellation of the transfer order on these grounds.

Therefore, I do not find valid reasons to quash the impugned transfer order which is upheld.

6. It is, however, open to the applicant to submit appropriate representation on the ground of his spouse being State Govt. employee at Allahabad ~~which~~ ^P for their consideration and passing orders within a period of two weeks from the date of the receipt of this order.

The O.A. stands disposed of accordingly.

Ravinder

J.M.

Asthana/