

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
Original Application No.24/2021.**

Dated this the 06th day of August, 2021.

CORAM:

Hon'ble Sh. Jayesh V. Bhairavia, Member (J)

Hon'ble Dr. A.K. Dubey, Member (A)

1. Shri Mukesh Kumar,
Son of Shri Arjunprasad Shaw,
Age: 45 years,
Serving as Chief Luggage Clerk
In the office of the respondents,
Residing at: C-1/603 Smarath Enclave
VIP Road, Nandini -3,
Vasu- 395 007(Surat).

...Applicant

(By Advocate Mr. M. S. Trivedi)

Vs

1. Union of India,
Through the General Manger,
Western Railway,
Churchgate, Mumbai – 400 020.
2. The Divisional Railway Manager (E)
O/o. DRM, Western Railway,
BCT Division, Mumbai Central,
Mumbai – 400 019.
3. Station Superintendent (S.M)
O/o. S.M (SS) Western Railway
Surat Railway Station,
Surat – 395 007.

...Respondents

(By Advocate Mr. M. J. Patel)

ORDER(ORAL)**PER: Hon'ble Shri Dr. A. K. Dubey, member (A)**

1. Aggrieved by the transfer vide order dated 19.01.2021, the applicant has moved this OA seeking following reliefs:-
 - “8 (A) *That the Hon'ble Tribunal be pleased to allow this petition.*
 - (B) *That the Hon'ble Tribunal further be pleased to quash and set aside the impugned ex-facie, illegal, arbitrary, unjust and unconstitutional action, decision, and order No.E/C/839/8/4Transfer Mukesh dated19.01.2021 (Annexure A/1) issued by the Respondents regarding transfer of the applicant as CLC-ST to the post of CGC (Goods) against the higher grade vacancy of CGS-Chief Goods Supervisor.*
 - (C) *Such other and further relief/s as may be deemed just and proper in view of the facts and circumstances of the case may be granted.*
2. Applicant is Chief Luggage Clerk (CLC), posted as CLC-ST (Surat) from March 2019. He has been transferred by the order dated 19.01.2021 which is impugned here (Annexure A/1). It is stated by the applicant that the said impugned order has been issued without his completing the tenure of 3 years. This transfer being on vigilance advice and hence, is not a normal transfer but a punitive one. He is transferred against a higher grade post but without any financial benefits. The applicant further avers that being a transfer on vigilance advice, respondent no.1 should have approved it. But it is not approved by the competent authority. He has also mentioned his family health problems and son's education who is studying in 9th standard at surat, as reasons to fee aggrieved from the impugned transfer.
3. Respondents have filed their reply contending that in this case, the transfer was on vigilance advice. There say is that there are clear instructions if a transferred official is proposed to be brought back or the transfer order is proposed to be cancelled without actually carrying it out the transfer order only then the next higher authority's approval is required. Further, a transferee on vigilance reasons is not posted in seats having public dealings. Here the transfer is on vigilance ground and has been ordered by the competent authority as the transfer order itself mentions it. Respondents contend that their action has been in accordance with rules.
4. Applicant has filed rejoinder reiterating his submissions.

5. Heard the Counsel for both the parties. The documents and material brought to our notice make it clear that the applicant was transferred on the advice of vigilance. Respondent's contention is that in vigilance cases, the normal tenure does not apply as the employee must shift to non sensitive post. The transfer order is duly approved by the competent authority as it has been expressly mentioned in the transfer order itself. After hearing the Counsel and perusing the material brought before us, we don't see that the applicant has been able to show any infirmity in the order or any procedural omission or lacuna. Consequently, we do not think this matter warrants our intervention. The OA lacks merit and is therefore dismissed.

(A K Dubey)
Member(A)

(Jayesh V Bhairavia)
Member(J)

PA