

RESERVED

## CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

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Registration (O.A.) No. 1041 of 1988

Gita Ram	....	Applicant.
	Versus	
Union of India & others	....	Respondents.

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Hon'ble Ajay Johri, A.M.  
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. Ajay Johri, A.M.)

By this application filed under Section 19 of the Administrative Tribunals Act XIII of 1985 the applicant, who is working as a Shunter at Laksar Loco Shed of the Northern Railway, has challenged his order of transfer to Rosa issued by the respondents on 16.8.1988. The grounds for challenging the order are that the order is violative of mandatory provisions of law, it has been issued in the middle of the scholastic session is likely to affect the education of his children and has been made without human considerations.

2. ~~We~~<sup>3</sup> have heard the learned counsel for both sides. Sri A.K. Verma, learned counsel for the applicant, contended that the transfer is bad because it has been made in the middle of the school session and puts unnecessary financial burden on the applicant because he has already deposited fees in the school for six months and a transfer at this stage will adversely affect the education of the children. On behalf of the respondents, who have not found it necessary to file a counter affidavit, the learned counsel, Sri G.P. Agarwal, opposed the application on the grounds that there was no rule that transfers should not be made in the middle of the school session and that it was on administrative account that the applicant was transferred, there was no prejudice or mala fide intention, hence



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the order was not assailable. No other issues were raised before us. We have also perused the paper book.

3. Orders of transfer would normally be outside the perview of the Court of Law. Transfer is also an implied condition of service. There is also no doubt that the administration is the best judge to decide how best to utilize its man power. The requirement of the staff in the category of Shunter also depends on the traffic conditions. There can be other factors also which may weigh in the decision to transfer an employee. As long as the power to transfer is not exercised for extraneous considerations or oblique motives or out of mala fides, any interference with such orders can cause harm to the functioning of the administration. We do not also find that legal provisions have been violated. In what way the order violates mandatory provisions of law has not been brought out at any stage. Mere making a bald statement is not enough. The only ground is the education of the children. For such situations rules permit retention of residential accommodation for sufficient period to cover up the school session. The applicant should have made such a request and we have no doubt that the respondents would have acceded to his request if it was made. We, however, do not find any sufficient reason to interfere with the order. It does not need any judicial review. The applicant, if he so desires, may request for the retention of the accommodation, if he <sup>has been</sup> ~~is~~ allotted <sup>some</sup> ~~only~~, on the ground of education of his children, as permissible under the rules.

4. In the above view, we dismiss this application with costs on parties.

*[Signature]*  
MEMBER (J).

*[Signature]*  
MEMBER (A).

Dated: October 26<sup>th</sup>, 1988.

PG.