

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD

O A No 435 of 1992

Sudarshan

...

Applicant

Versus

Union of India & others

...

Respondents

Hon'ble Mr A K Sinha- J M

(By Hon'ble Mr A K Sinha - J M)

This is an application u/s 19 of the Administrative Tribunal Act 1985 praying to set-aside the impugned order dated 12 02 92 i.e. Annexure A-1 being illegal and unjust and against the <sup>guide line of</sup> transfer policy of the Railway Employees made by Railway Board.

2- The short facts, giving rise to this application, are as follows; the applicant was appointed as Carpenter in the Eastern Railway on 16 09 66 in Grade-II. In due course, he was promoted to Grade I and was transferred vide order dated 4 01 92 under E W I Renukut where he joined. It is alleged that his daughter <sup>is</sup> admitted in Janta School govern by the Hindaliko company at Renukut. It is stated that the applicant caught cold and got himself declared sick and to that effect an endorsement ~~was~~ made by respondent no.4 with the remarks that the applicant was under order of transfer and on that account, the applicant could not get admitted in the Railway Hospital and so he himself <sup>got</sup> ~~shall~~ be treated by the private doctor Shri Tejballi Dwivedi

It has averred that the applicant came to know from some of his colleagues that he has been transferred to Pathardiha, although the transfer order could not be served on the applicant, It is stated that it is illegal, unjust and against the guide line of the transfer policy of the railway employaes. On these allegations, the applicant has sought the above relief for set-aside the order of his transfer.

3- The respondents <sup>w. leave in</sup> appeared on notices and filed their written statement <sup>^ m</sup> stated inter alia that the transfer order was issued but due to avoiding attitude of the applicant with the intention to approach this Hon'ble Tribunal <sup>to get</sup> <sup>transfer</sup> <sup>^ m</sup> the order of stay, He deliberately got himself reported to be sick for obtaining an order in his favour from the Tribunal. It is stated that the order of transfer being a composite one with the transfer order of one Shri Guleb Chand who had requested for his transfer from Pathardiha to Renukut <sup>which</sup> <sup>^ m</sup> was under consideration on the ground of his wife's illness who is suffering from Tuberculosis and also on the ground of his children education and, therefore, the order <sup>of</sup> transfer of Gulab Chand can not be said to be in order to accomodate him in preference to the applicant. It is stated that the order of transfer is genuine and just. It is further stated that the applicant is not finally settled at Renukot. He is still retaining in Railway Quarter No

5/0 Type II at Bhawanathpur under P & I Dhanbad. The applicant has also not applied for any accommodation at Renukut and, as such, the question of settlement of his family at Renukut does not arise.

4- On all these allegations, it has <sup>been sought to be argued</sup> ~~come up~~ that the applicant has neither made out any prima-facie case nor any balance of convenience in his favour so as to <sup>be</sup> ~~set~~-aside the transfer order which was in the interest of administration.

5- When the case was called <sup>on</sup> ~~out~~ for hearing, no-body appeared for the applicant. However, I have perused the pleadings of the parties and rejoinder dated 26 06 92 filed by the applicant and have also gone through various annexures and I am of the view that the applicant has not made out any ground for interference or the transfer order passed in this case.

6- It is true that by the order dated 23 12 91, he was promoted to the post of carpenter Grade-I and posted to Renukut vide order dated 04 01 92 but subsequently the <sup>said</sup> order was modified for administrative reasons by the impugned order dated 12 02 92 <sup>whereby</sup> ~~and~~ he has been posted to Pathardiha in the same Grade and in his place one Gulab Chand was retained <sup>here on</sup> ~~under~~ promotion. It appears from the averments made in the written statement that the wife

of Gulab Chand is suffering from the Tuberculosis and his children are students of U P Board and, therefore,

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on consideration of his representation, Shri Gulab Chand has been retained in the post on promotion at Renukut.

That being the position, I do not find any illegality or unfairness in the impugned order passed by the respondents. The transfer is an incident of service and transfers are always being made in the public interest and in exigency of services. In the instant case, on consideration of the conspectus of the facts and circumstances, it appears to me that the allegation of the applicant that he is settled at Renukut and that his daughter is admitted in Janta School, does not appear to me, <sup>Correct</sup> in view of the facts that he is still retaining <sup>his</sup> a quarter at Bhawanathpur under Inspector of Works Dhanbad and he <sup>has</sup> also not applied for any accommodation at Renukut. Therefore, the question of settlement of the applicant at Renukut does not arise.

7- Applicant has also not made out any case of <sup>or</sup> malafide <sup>malice</sup> with regard <sup>to</sup> his transfer order. On the contrary, from the <sup>his</sup> averments made in the written statement by the respondents, it appears that in the interest of administration, representation of Gulab Chand was accepted on the grounds of his wife's illness and children's education and on that consideration, he was retained on promotion at Renukut and the applicant was transferred from Renukut to Patherdiha.

8- In that view of the matter, I do not find any illegality or infirmity in the impugned order dated 12 02 92 (Annexure A-1) of transfer which does not call for any interference by this Hon'ble Tribunal.

9- In the result, application has no merit and is accordingly dismissed. But in the circumstances, there would be no order as to costs.

DATED: 28th May, 1993

(IS)

*Shri Kishor Singh*  
MEMBER (J)