

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>is</sup> <sub>to</sub> get admitted in the Railway Hospital and so he himself

shall be treated by the private doctor Shri Tejbali 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 employees. On these allegations, the applicant has sought the above relief for setting aside the order of his transfer.

3- The respondents appeared on notices and filed

their written statement 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> ~~waited~~ the order of stay <sup>transfer</sup> 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 Gulab Chand who had requested for his

transfer from Pathardiha to Renukut 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 of transfer of Gulab

Chand can not be said to be in order to accommodate

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

Renukut. He is still retaining in Railway Quarter No

5/D Type II at Bhawanathpur under P.W.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.

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

5- When the case was called <sup>on</sup> 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 of 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 said order was modified for administrative reason 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,

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, in view of the facts that he is still retaining a quarter at Bhawanathpur under Inspector of Works Dhanbad and he has 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 malafide malice with regard to his transfer order. On the contrary, from the 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

*Arun Kumar Sethi*  
MEMBER (J)

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