

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahaba : Dated this 28th day of November, 2001.

Original Application No. 300 of 1999.

CORAM:-

Hon'ble Mr. C.S. Chadha, A.M.

Anis Ahemd aged about 37 years,
s/o Late Shamshuddin,
R/o E/23-A, Rly Colony, Basti,
District Basti.

(Sri KA Qayyum, Advocate)

.....Applicant

Versus

1. Divisional Manager Railways (N.E.Rly),
Ashok Marg, Lucknow.
2. Divisional Manager (Engineer),
N.E. Rly, Ashok Marg, Lucknow.
3. A.D.R.M. (Administration),
N.E.Rly, Ashok Marg, Lucknow.
4. D.R.M. (Engineer) II, N.E.Rly, Ashok
Marg, Lucknow.
5. Mr. R.P. Singh, J.E. Grade I (Work),
Section Engg. (W), N.E.Rly, Anand Nagar,
District Maharajganj,

(Sri A.V. Srivastava, Advocate)

..... Respondents

O R D E R (O_r_a_l) -

By Hon'ble Mr. C.S. Chadha, A.M.

The case of the applicant is that he was working as a Section Engineer at Manikpur but was transferred in the month of November, 1998 to Anandnagar, whereafter he represented on 23-11-1998 to the D.R.M. who gave a recommendation on the application itself suggesting to the S.D.(W-II) to consider effecting the transfer after

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the school session. However, that authority did not consider it favourably but amended his earlier transfer order on 18-1-1999 to a nearer place. The applicant had also applied to the D.R.M./Engineering, N.E.Rly, Lucknow on which that officer recommended on 2-12-1998 to the Sr. DWW(Works) that the order may be kept pending till 30-4-1999. However, this recommendation was also not agreed to. The applicant claimed that despite the stay by the higher authorities, the lower authorities did not obey the order. I am unable to agree to this averment because on both the applications the Senior Authority had not passed a clear order of stay but had merely recommended consideration of the matter. There is no merit in the claim of the applicant that the transfer was made in colourable exercise of power, more so when he was accommodated at a place just 20 Kms away from his earlier place of posting. The OA seeking to quash the transfer order because it is a colourable exercise of power is, therefore, not sustainable.

2. Learned counsel for the applicant has also prayed for grant of salary from the date of transfer till the date he joined at his new place of posting. I would have no hesitation in granting salary had the period been covered by a competent authority staying the order. As mentioned earlier, on both the applications of 23-11-1998, the higher authorities only recommended consideration of keeping the transfer order pending till the end of the educational session. They did not pass any clear stay order entitling the applicant stay at Manikpur and claim salary. Therefore, the claim of the salary is also rejected. However, it is open to the applicant to make a mercy petition to the Railway Authorities, who may consider it on merits, within a period of four months from the date of receipt of this order. The OA is disposed of accordingly with no order as to costs.