

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1454 of 1999

Allahabad this the 3rd day of August, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

S.M. Sagheer, S/o Mohd.Nazir, R/o H-100, Rail-  
way Colony, Agra Cantt., Agra, working as Head  
T.C., Agra Cantt. Agra.

Applicant

By Advocate Shri N.P. Singh  
Shri B.K. Singh

Versus

1. Union of India through Secretary, Ministry of Railway, New Delhi.
2. Central Railway through the General Manager, H.Q. Bombay, CST.
3. Chief Commercial Manager-(G), Central Railway, CSTM, Bombay.

Respondents

By Advocate Shri Prashant Mathur.

O R D E R

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri S.M. Sagheer has sought for relief against the transfer order dated 22.1.99, through which he has been transferred from Agra (Jhansi Division) to Bhusawal Division, mainly on the compassionate ground of illness of his son

.....pg.2/-

*S. M. Sagheer*

who is under treatment at Neurology Unit of Neuro Department of Medical College, Agra.

Though it has also been pleaded that this transfer order from one division to another division has not been passed after obtaining approval by the Railway Board.

2. The respondents have contested the case and filed the counter-reply with the mention that the transfer has been made in the interest of administration with all usual facilities as admissible under rules. It has been pressed on behalf of the respondents that the transfer is inevitable incident of transferable service, therefore, the applicant shall manage to join at transferred place of posting.

3. Heard, the learned counsel for the rival contesting parties and perused the record.

4. Learned counsel for the applicant has referred to the pleadings, according to which it has been asserted that the eldest son of the applicant is under treatment at Neurology Unit of Medical College, Agra and the stage of his ailment has reached to a point where he may get effective treatment only at Agra or Bombay and for this reason only, the applicant could not even move from Agra and has exhausted all the possible leave available to him during this period of more than one and half year.

*Sae aagru*

.....pg.3/-

5. In this matter, the respondents were directed on 27.6.00 to produce the service record of the applicant on next date, that was for 21.7.00, but on 21.7.00, learned counsel for the respondents sought for further time to produce the record and the matter was adjourned for 28.7.00 but on this adjourned date, learned counsel for the respondents was not in a position to produce the record, which were directed to be produced at the time of hearing. This attitude on the part of the respondents cannot be appreciated and may lead to presumption that the production of document would have been ~~against~~ <sup>gone</sup> against the interest of the respondents.

6. From the above, I find the grounds advanced from the side of the applicant appears to be genuine and he deserves a sympathetic attitude from his employer as well as from the Court and non-production of record from the side of the respondents, as mentioned above, also lead a presumption against the respondents and the rulling referred from the side of the respondents, cited as 1999(3)C.A.T. A.I.S.L.J. 249, cannot come to his rescue.

7. With the above facts and circumstances as narrated above, the impugned transfer order dated 22.1.1999 is set aside and the applicant

*See margin* ... pg.4/-

be allowed to discharge his duties as H.T.C.,  
Agra Cantt. Agra and ~~entitled to~~ <sup>entitled to</sup> pay regular salary as may be  
admissible to him. The O.A. is disposed of acc-  
ordingly. No order as to costs.

*See margin*

Member (J)

/M. M. Ø