

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 18th day of January, 2001

Original Application No.608 of 2000

CORAM :-

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

V.P. Chaudhary, S/o Sh. Dev Chaudhary,
R/o House No.37, A-2F/12, New Madhu Nagar,
Agra,
at present employed on the post of Head
Train Examiner, Agra Fort, Agra Division,
in the North Central Railway.

(Sri S.Singh, Advocate)

..... Applicant

Versus

1. Union of India through the General Manager,
Western Railway, Chatrapati Shivaji Terminus,
Mumbai.
2. Divisional Railway Manager, Western Railway (W.R.)
Kota Division, Kota.
3. Senior Divisional Commercial Manager (Estt.),
Western Railway (W.R.), Kota Division, Kota.
4. Divisional Railway Manager, North Central Railway,
(N.C.R.), Agra Division, Agra.

(Sri G.P. Agrawal, Advocate)

... Respondents

O R D E R (O_r_a_1)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

This application has been filed under Section 19
of the Administrative Tribunals Act, 1985, challenging
the order dated 3-11-1999 by which the applicant had
^{that} been intimated the order of transfer passed against him



in the year 1998-99 which was postponed for certain reasons, should be complied with by 31-3-2000. The counter reply was served on the applicant on 25-7-2000 and it was filed in the Court on 26-7-2000. Alongwith the counter reply the respondents have filed two orders of Jaipur Bench of the Tribunal passed in OAs filed by the present applicant V.P. Chaudhary. The OA No.222/1999 was filed by the applicant challenging the order dated 4-5-1999 by which he was transferred from Agra Fort Station. This OA was disposed of by the following orders :-

"Even without going into the merits of the case, I feel that the applicant must first make a representation to the competent authority for redressal of whatever grievance he has with respect to the impugned order. He may make a representation within one week and the Railways may take a decision on his representation within one month of his giving the representation. In case the applicant is not satisfied with the reply, he may file a fresh application."

2. It appears that the representation of the applicant was decided then he filed the OA No.358 of 1999 before the Jaipur Bench of this Tribunal. In Para 2 of the judgement in O.A. facts have been stated from which it appears that firstly the applicant was transferred from Agra Fort to Roopwas vide order dated 9-10-96 but on his application, he was retransferred from Roopwas to Agra vide order dated 21-11-1995. Then applicant was again transferred from Agra Fort to Kota vide the order of transfer dated 4-5-1999, which was challenged by the applicant. The Jaipur Bench of the Tribunal after hearing the applicant at length by a detailed order dismissed the OA by order dated 8-10-1999. Thus, the order of transfer dated 4-5-1999 transferring the applicant from Agra Fort to Kota became Final, The

The present impugned order is only an intimation to the applicant for compliance of the same order which was challenged before the Jaipur Bench of the Tribunal twice as mentioned above.

3. Sri Saumitra Singh, counsel for the applicant ~~has~~ requested for filing the rejoinder affidavit.

In my opinion, as the counter reply was served on 25-7-2000, the applicant has already availed sufficient time to file the rejoinder affidavit and no further opportunity is required to be given. On service of the counter affidavit, it is obligation of the applicant to file rejoinder affidavit at the earliest without waiting for the Court's order. The second submission of the counsel for the applicant is that in similar matters this Tribunal allowed OAs and directed the Railway Board to decide the question of the validity of the transfer ~~treatings the applicants~~ ^{orders passed during the process of creation of} of new divisions and zones. The second submission also cannot be accepted in view of the fact that this ground was available to the applicant while filing the OA before the Jaipur Bench and if the ground has not been taken, the second OA ^{can} ~~not~~ be filed before another Bench with the new ground. The plea is barred by constructive res judicata.

4. For the reasons stated above, this application for challenging the same transfer order is not legally maintainable and is accordingly dismissed with no order as to costs.


Vice Chairman

Dube/