

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 25th day of August, 2000

Original Application No. 665 of 2000

District : Etawah

CORAM :-

Hon'ble Mr. Rafiquddin, J.M.

Mukesh son of Shri Lala Ram Balmiki,
Resident of Railway Quarter No.5-D,
Railway Colony, Near Railway Bridge,
Railway Station, Etawah.

(Sri Satish Dwivedi/ Sri Anil Dwivedi, Advocate)

• • • • • Applicant

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Divisional Personnel Officer,
Northern Railway, Allahabad.
3. The Divisional Operating Manager,
Northern Railway, Allahabad.
4. The Station Superintendent, Northern Railway,
Etawah.

(Sri A.K. Pandey, Advocate)

• • • Respondents

ORDER (oral)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant, who is posted as Cabin Man at Etawah, had been transferred by the impugned order dated 6-5-2000 from

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Etawah to Kanpur. The applicant by means of this OA has challenged the validity of the impugned transfer order.

2. The case of the applicant is that he, being a Schedule Caste, ^{relinquish} cannot be transferred ~~frequently~~ because his transfer has not been made in the light of the provisions of guidelines contained in the Railway Board Circular dated 14-1-1975 which inter alia provides that employees belonging to Schedule Caste and Scheduled Tribes should be transferred very rarely after very strong reason only.

3. I have heard counsel for the parties and perused the record carefully.

4. Learned counsel for the respondents has contended on the basis of pleadings that the transfer of the applicant has been made in public interest on administrative grounds and he has merely been transferred from Etawah to Kanpur and, therefore, the guidelines mentioned in the aforesaid circular are not violated by the respondents and, therefore, the transfer order is valid. Learned counsel for the applicant, on the other hand has argued that the special provision for SC/ST employees contained in the aforesaid circular are mandatory in nature as has been held by the Division Bench of this Tribunal of Jodhpur Bench reported in (1994) 26 ATC Page 313. The respondents in their short counter affidavit have not stated that while transferring the applicant, the circular in question was considered and the guidelines mentioned therein has been followed in respect of the transfer of the applicant. I am in agreement with the argument of the learned counsel for the applicant that since the special provisions contained in the circular dated 14-1-1975 issued by the Railway Board being mandatory in nature, respondents are bound to follow the provisions

contained therein. However, I find that the respondents have not considered the provisions of the circular nor have shown any ground in their short counter affidavit for not following the same. ^{R instead of} However, for the purpose of quashing the transfer order I find it appropriate that the respondents nos.3 and 4 be directed to reconsider the case of the applicant in the light of the provisions contained in the Railway Board Circular dated 14-1-1975 and pass an appropriate order in the light of the guide lines of the circular. The OA is, therefore, disposed of ^{with} with the direction to the respondent nos.2 and 3 to reconsider the transfer order of the applicant in the light of the circular dated 14-1-1975 and pass appropriate order within 15 days from the date of communication of this order. It is also directed that till the order is passed, the impugned transfer order will be kept in abeyance. There shall be no order as to costs.

D. T. M. J. Muddu

Member (J)

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