

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 1ST DAY OF JANUARY, 2004

Original Application No. 1550 of 2003

CORAM:

HON.MR.JUSTICE S.R.SINGH,V.C.

HON.MR.D.R.TIWARI, MEMBER(A)

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Anil Kumar Mishra, son of  
Late Shri Chandra Pal Mishra  
Resident of C/o Sri Lav  
Gautam, B-108, Shiv Lok, Phase-1,  
Haridwar(Uttaranchal) employed as  
E & RC, Northern Railway, Haridwar.

.. Applicant

(By Adv: Shri Manoj Kumar)

Versus

1. Union of India through  
General Manager, Northern  
Railway, Baroda House,  
New Delhi.
2. The General Manager(P),  
Northern Railway, Baroda House,  
New Delhi.
3. The Divisional Railway Manager,  
(P), Delhi.
4. The Divisional Railway Manager,  
Northern Railway, Moradabad.
5. The Station Superintendent,  
Northern Railway, Haridwar,  
Uttaranchal.

.. Respondents

(By Adv: Shri A.K.Gaur)

O R D E R (Oral)

JUSTICE S.R.SINGH,V.C.

The applicant, a Railway Inquiry and reservation  
Clerk at Haridwar, who was posted there recently in the  
month of July 2003 has since been transferred by means  
of impugned order (Annexure 1) to Delhi Division

RSN

alongwith post on pay of Rs 4500/-. It has been submitted by the learned counsel that the applicant's wife too is in government service and is posted at Dehradun as a teacher in Primary Pathshala, village Nayagaon Polio Block, Saharpur, Dehradun and his two children aged 6 & 8 years are prosecuting their studies in Car Man Residential & Day School, Dehradun and the avoidable mid academic transfer of the applicant would not only disturb his family life but it will adversely affect the studies of the children. Learned counsel submits that in view of the policy decision contained in (Annexure 6) endeavour should be made to post the wife and husband at one station in case both of them are in government service particularly when the children are minor below 10 years of age. The authorities are required to ensure compliance of the said guideline strictly. Learned counsel submits that there were no compelling administrative exigencies warranting transfer of the applicant in breach of the said guide line. Shri A.K. gaur, however, submits that the OA may be disposed of with the direction to the applicant to prefer a representation which representation the authorities may be directed to dispose of in accordance with law after taking into reckoning the guide lines and other facts and circumstances of the case.

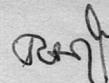
We have considered the submissions made across the bar. In our opinion, the departmental authroties would be in a better position to appreciate the grievance of the applicant and to strike a reasonable balance between the personal problems and the administrative exigencies,

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if any, warranting transfer of the applicant in breach of the guide lines contained in (Annexure 6). We, therefore, dispose of the OA with the direction that in case the applicant prefers a representation within three weeks from today, the Competent authority namely the Divisional Railway Manager, Northern Railway, Moradabad, shall consider and dispose it of by a reasoned and speaking order having due regard to the guide line contained in Annexure 6 to the OA. The effect and operation of the impugned transfer order is hereby stayed and the stay would remain operative pending decision on the representation.



MEMBER (A)



VICE CHAIRMAN

January 1st, 2004

Uv/