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O.A.No. 305/86

CORAM : (1) Hon'ble Mr.P.H.Trivedi (Vice Chairman)
(2) Hon'ble Mr.P.M. Joshi (Judicial Member)

Heard the learned advocate Mr.V.S.Mehta for the applicant on admission and on interim relief. He has pleaded that the order of transferring the applicant from Jetpur to Jetalsar was passed on 17-12-1985.

The applicant fell sick on 18th December 1985 and he is even now convalescing. In the meantime, on 26.12.85 he was transferred to

Vadia from Jetpur, in a chain of transfer to accommodate Shri Mahendra Prasad, according to the applicant. The applicant is aggrieved by the order of transfer of 26-12-85, because, according to him it was not necessary to change the order of 17th December 1985 soon after it was passed. The transfer of Shri Mahendra Prasad is discriminatory in as far as the applicant's order of transfer have been caused only to accommodate Shri Mahendra Prasad.

We could find no merit in the application for staying the impugned orders as prayed for. The applicant even now is convalescing, according to the statement of his advocate. The impugned order dated 26-12-85 has been passed very soon after earlier order dated 17-12-85 when the applicant by his own admission was not fit to join. The order of 26-12-86 is within the scope of administrative exigency which is a good ground for such transfer orders. No strong ground for establishing malafide has been brought out.

The circumstances in this case however do not indicate either malafide or abuse of administrative powers. Both the stations Jetalsar and Vadia are in the same division, not very far from each other. The applicant may have some domestic reasons for resisting the transfer but the appropriate course of action would be to appeal on compassionate grounds to the Railway Authorities. He has no legal right to choose the place of his posting merely because he relies upon an order of transfer which has been passed several months ago when in any case he admits that he was in no position to implement if on account of sickness, we therefore reject the application.

26-8-86.

Phew
(P.H. TRIVEDI)
VICE CHAIRMAN

Joshi
(P.M. JOSHI)
JUDICIAL MEMBER