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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 516 OF 1987
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DATE OF DECISION 21.10.1987.

(During vacation.)

S.K. SAXSENA Petitioner

M.M. DESAI Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondents.

N.S. SHEVDE Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

S.K. Saxena,
P.W.I. Petlad,
Quarter No. E/10, Rly. Colony,
Petlad.

..... Applicant.

Versus.

1. Union of India,
General Manager,
W.Rly. Churchgate,
Bombay.

2. Senior D.E.N. I,
D.R.M. Office (WR)
Pratapnagar, Baroda.

3. A.E.N.
Anand.

4. Senior D.P.O. DRM Office (WR)
DRM Office, Pratapnagar,
Baroda.

..... Respondents.

Coram : Hon'ble Mr. P.M. Joshi, Judicial Member.

ORAL ORDER

21-10-1987.

Per: Hon'ble Mr. P.M. Joshi, Judicial Member.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner Shri S.K. Saxena has challenged the validity of the order of transfer dated 21.1.1987, whereby he has been transferred from Petlad to Dhrangadhra on the post of Permanent Way Inspector. He has also sought direction against the Respondents-Railway Administration that he may be paid his salary which has not been paid since July, 1987.

2. Mr. M.M. Desai, the learned counsel for the applicant has been heard at a considerable length. According to him, the applicant has been singled out for transfer as other persons who were under the orders of transfer by virtue of the impugned order, they have been allowed to be retained

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on their respective stations. It is further stated that the father of the petitioner has recently died (i.e. in the month of February, 1987) and he is having an ailing old mother and his children who are prosecuting their studies in the College, will have no facilities for the same at Dhrangadhra. On these and other grounds he has made representations to the authorities which have not been still replied.

3. Mr. N.S. Shevde, the learned counsel for the Respondents has opposed the admission of the application on the ground that the order of transfer has already been implemented inasmuch as he ^(the petitioner) has been finally relieved on 11.6.1987 and since he does not ^{hold} the post at Petlad Railway Station, he cannot claim any salary. He can have his legitimate claim from Dhrangadhra Railway authority.

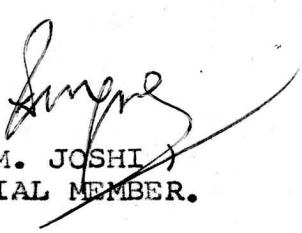
4. It is pertinent to note that the applicant seems to have proceeded on leave, on receiving the letter of transfer. In the meantime, Mr. S.N. Singh was directed to take over the charge and in terms after having taken over the charge as P.W.I., Petlad, he has informed the applicant about it vide his letter dated 13.2.1987 (Annex. A-5). Somehow or other, the applicant preferred to proceed on sick leave and in this context, he has been allowed to continue up to 11.6.1987, when he has been finally relieved. In this regard also Mr. S.N. Singh has notified the applicant under his letter dated 11.6.1987 (Annex.A-13) that he has taken over the charge as P.W.I. Petlad and that he should carry out his transfer. Later on, he (petitioner) has sent a telegram to Sr. D.E.N. informing him that he is sick and that the sick certificate will follow. No such sick leave or other type of leave seems to have been granted in his favour. Consequently, the authorities have been constrained

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to issue direction to stop the payment of salary to the applicant.

5. It is now accepted principle that in public service transfer is an incident of service. It is also a condition of service. An appointing authority has wide discretion in the matter. The Government is a best judge to decide how to distribute and utilise the services of its employees. However, this power must be exercised honestly, bonafide and reasonably. It should be exercised in the public interest. Now having regard to the fact and circumstances of the case, it can not be said that the impugned action of transfer suffers from any ^{or} vice. Some-how ^{or} other, the applicant has tried to avoid the transfer under one or other pretext. It is significant to note that he has been finally relieved on 11.6.1987. But he has not preferred to take the charge at Dhrangadhra, where he is transferred. There are no valid grounds to assail the impugned order of transfer dated 21.1.1987, which is now sought to be challenged in the month of October, 1987. Moreover, there is no justification to interfere with the instructions issued by the authorities in respect of stopping of the payment of the salary vide order dated 31.7.1987.

6. The application merits no consideration whatsoever and the same is rejected in limine.


(P.M. JOSHI)
JUDICIAL MEMBER.