

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. No. 664 of 1988

DATE OF DECISION 07-04-1989Shri Sajjan Fakira

Petitioner

Shri A. S. Dave

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondent

Shri B. R. Kyada

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. H. Trivedi : Vice Chairman

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(9)

Shri Sajjan Fakira,
(P.W.M.), Western Railway
Rajkot Division,
R a j k o t.

..... Petitioner

(Adv. : Mr. A. S. Dave)

Versus

1. Chief Engineer,
Survey & Construction,
Western Railway,
Churchgate,
Bombay.
2. Chief Engineer(Const.),
West, CCG,
Ahmedabad.
3. Executive Engineer(Const.),
Western Railway,
Jamnagar.
4. X E N (Const.),
Western Railway,
Rajkot Cell,
Rajkot.
5. Union of India, through
General Manager,
Western Railway,
Churchgate,
Bombay.

..... Respondents

(Adv. : Mr. B. R. Kyada)

J U D G E M E N T

OA/664/88

Date : 07-04-1989.

Per : Hon'ble Mr. P. H. Trivedi : Vice Chairman.

In this application under Section 19 of the Administrative Tribunals Act, 1985 the petitioner has asked for quashing and setting aside of the order dated 7-10-1988 and to direct the respondents to give him a permanent place of posting and also to prepare seniority list of Survey & Construction Department and Open Line Department and to post the petitioner at Jamnagar where he was working before, on the ground that he has been subjected to harassment by reason of a number of transfers

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and that his wife is sick and that inspite of an order no seniority list has been prepared and one Mr. Mishra has been continued on the post where the petitioner was serving. The respondents on the other hand have brought out the administrative circumstances and reasons which have occassioned the petitioner's transfer in the present case and earlier that his initial appointment as permanent Way Mate and subsequent promotion as Permanent Way Mistry was purely an ad hoc and local arrangement and not on selection and that due to major conversion project from Hapa to Okha to broad guage and Kanalus to Porbander having been completed in April, 1984 and opened to traffic and thereafter, after completion of the residual works, the petitioner is required now to be shifted due to contraction of cadre that Shri Mishra is very senior to the petitioner and the petitioner is junior most surplus employee and, therefore, was correctly ordered to be sent to Bombay that the petitioner has adequately medical facilities in his new station and, therefore, the plea that his wife is sick and cannot be shifted has no weight.

2. In matters of transfer unless there are reasons based on mala fide or arbitrariness the nature and extent of judicial review has hardly any scope as has been held in a number of cases. The petitioner has been unable to establish any arbitrariness or mala fide and the respondents have given sufficient material to show that there were genuine administrative reasons resulting in the petitioner's transfer. We have no doubt

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that the petitioner's case will be sympathetically considered as and when circumstances warrant his being brought back. We will also impress upon the respondents the need for finalising the seniority list. In view of their definite averments that Shri Mishra is considerably senior to the petitioner and that the transfer is caused on account of the petitioner being rendered surplus being junior most, we see no reason to interfere with the impugned order.

3. The petition is rejected accordingly. There shall be no order as to costs. Rule discharged.

P. H. Trivedi
(P. H. Trivedi)
Vice Chairman