

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 271 of 89 1989
~~XXXXXX~~

DATE OF DECISION 10.9.1990.

Mr. Gangaram Devji Pandya Petitioner

Mr. P.H. Pathak Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Mr. B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. A.V. Haridasan .. Judicial Member

The Hon'ble Mr. M.M. Singh .. Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
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

Gangaram Devji Pandya
Navawadaj,
Vasutinagar, Ahmedabad-13.

: Applicant

Versus

1. The Senior Divisional
Mechanical Engineer (Carriage)
Western Railway, Rajkot
Division, Kothi Compound,
Rajkot.

2. The C.D.O. (M.G.)
CDO Office (M.G.Gomtipur
Yard (M.G.) Ahmedabad.

3. Secretary,
Ministry of Railway,
Railway Bhavan, New Delhi.

: Respondents

Coram : Hon'ble Mr. A.V.Haridasan

: Judicial Member

Hon'ble Mr. M.M.Singh

: Administrative
Member

O.A. 271 of 1989

O R D E R

Date: 10/9/1990

Per: Hon'ble Mr. A.V.Haridasan

: Judicial Member

The applicant a member of the scheduled caste has filed this application challenging the order by which he was transferred from Gomtipur to Happa outside his native district. It is averred in the application that the transfer ~~is~~ ^{has} ~~in~~ ^{against the} policy of the railway contained in the letter of the Railway Board. It is also averred that the applicant is put to great difficulties as a result of the ~~in~~ ^{the} ~~distant~~ transfer to a ~~distinct~~ place. It is averred in the application that the respondents did not take into account the representation made by him. The letter of the Railway Board dated 24.12.1985 it has been stated as follows:-

"In Board's letter dated 19th November, 1970 and 14th January, 1975 referred to above, it was desired that the transfer of SC/ST employees should be confined to their native districts or adjoining districts or places where the Administration can provide quarters and that these instructions should be followed to the maximum extent possible, subject of course to the exigencies of service. It was also desired that employees belonging to SC/ST should be transferred very rarely and for very strong reasons only. Again in Board's letter dated 6th July, 1978 referred to above, it was clarified that even at the time of initial appointment, the SC/ST candidates should as far as practicable, be posted, nearer to their home towns or at a place where the Administration can provide them quarter subject to their eligibility. It was further clarified that these instructions would equally apply to cases of transfer on promotion provided the post is available."

It appears that the respondents have not taken into account this instruction while they decided to transfer the applicant out of his native district. In obedience of the order of transfer the applicant has already taken *charge* *in* *the* *new* *station*. Therefore we are convinced the *be met* interest of justice will *meet* if the applicant is directed to make a representation detailing ~~of~~ all his difficulties to Second Respondent who will consider of the same on merits, Keeping in view the instructions contained in the Railway Board's letter and other relevant rules and instructions. In the result the application is disposed of with the following direction: S:—

- (1) The applicant may file a representation *and his right to be* highlighting his difficulties *and* in the *district* in which he is working within a period of four weeks from today.
- (2) The second respondent shall on receipt of such an application by the applicant consider the request of the applicant for a reposting to the station from which he was transferred taking into account the facts mentioned in the

representation in the light of the instructions contained in the Railway Board's letter dated 24.12.1985 and other rules and instructions in this regard and dispose of the same with a speaking order in accordance with the law within a period of three months from the date of receipt thereof. There is no order as to costs.

M. M. Singh
(M.M.Singh)
Admv. Member

(Signature)
(A.V.Haridasan)
Judicial Member

a.a.b.

(6)

M.A./431/90

in

O.A./271/89

Coram : Hon'ble Mr. P.H.Trivedi

: Vice Chairman

Hon'ble Mr. R.C.Bhatt

: Judicial Member

1/2/1991

Mr.P.H.Pathak, learned advocate for the petitioner present. Mr.B.R.Kyada, learned advocate for the respondents not present. Amendment allowed. The applicant to carry out amendment within 10 days from the date of this order. The respondents may file reply to the amended application within 10 days thereafter. Registry to do the needful. With this order, MA/431/90 stands disposed of.

Rebhal

(R.C.Bhatt)
Judicial Member

Pathak

(P.H.Trivedi)
Vice Chairman

a.a.b.