

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

~~XXXXXXXXXXXX~~

O.A. No. 219 OF 1991 ~~x198x~~
~~AXXNOX~~

DATE OF DECISION 3-6-1991.

Mohmad Noor Mohmad & Ors. Petitioner s

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

Versus

Union of India & Ors. Respondent s.

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

CORAM :

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

The Hon'ble Mr. S. Santhana Krishnan, Judicial Member.

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

1. Mohmad Noor Mohmad
2. Association of Rly & Post Employee through its treasurer Shri R.C.Pathak having office at 4 Allap Flats, Opp. Anjilee Cinema, Vasna Road, Ahmedabad. Applicants.

(Advocate: Mr. P.H. Pathak)

Versus.

1. Union of India, Notice to be served through The General Manager (WR) Churchgate, Bombay.
2. Divisional Railway Manager (WR) Kothi Compound, Rajkot. Respondents.

(Advocate: Mr. B.R. Kyada)

ORAL ORDER

O.A.No. 219/1991

Date: 3-6-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

Heard Mr. P.H. Pathak, learned counsel for the applicants. Mr. B.R. Kyada, learned counsel for the respondents not present.

2. This application has been filed by applicant Mohmad Noor Mohmad as applicant No.1. Applicant Sr.No.2 is Association of Railway and Post Employee through its treasurer Mr. R.C. Pathak having office at 4, Allap Flats, Opp. Anjlee Cinema, Vasna Road, Ahmedabad. Applicant No.1 figures at Sr.No.14 in Annexure A-1 dated 15.5.1991 which order is impugned in this Original Application filed under section 19 of the Administrative Tribunals Act, 1985. By this order 23 applicants who are, to quote from the order, "surplus at Hapa are transferred to another station as shown against each in their same scale and pay against the existing vacancies". The 23 personnel listed in this order are to be transferred to Sabarmati

H. H. Suresh

and Mehsana Stations of Rajkot Division of Western Railway which is the division in which the personnel transferred are. As such the transfer is within the division itself. According to learned counsel Mr. Pathak, the applicants are liable to transfer within the division.

3. His attack on the order is mainly directed against the use of the word "surplus" in the order dated 15.5.91. His contention is that the word reflects on the seniority of the applicants who are senior to those figuring in the seniority list at Annexure A-2 but not transferred. In sum, Mr. Pathak's submission amounts to saying that even for transfer the respondents should go by the seniority list and the word 'surplus' should make the respondents follow the policy of last come first go. He further attacks the order as arbitrary under Article 16 of the Constitution and further that it is aimed to defeat the purpose of another original application referred to in the application but its number and when filed not shown. This another original application is ^{stated to be in} about training and absorption on the diesel side in the year 1989 and alleges that the respondents acted in contravention of their own policy by sending juniormost employees and other employees who had not worked in the same side or not even qualified for diesel assistant training and absorption. It is the further allegation of Mr. Pathak that the transfer order is thus malafide.

4. We are not persuaded by the above arguments and submissions of Mr. Pathak. It is evident from the purpose of the order Annexure A-1 that the respondents are removing surplus staff from Hapa to fill up vacancies in places to which the applicant have been transferred.

M. M. L.

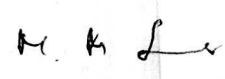
Such administrative exercise to remove surplus staff from one place to another to fill up vacancies at another place is normal administrative exercise. Just because those transferred happen to be senior to some others who are not transferred, the order of transfer cannot be challenged as bad. Such transfer has no bearing on the ^{r M}right of employment ^uwhich guaranteed under Article 16. Article 16 refers to right to employment and not to ^{at H}right of employment ^{of} a particular place of transferable employees. It is also not clear to us how the transfer of the applicants has anything to do with another original application on the issue of right to training and ~~in~~ how does the transfer become ^(limited H malafides H)terminated by ^{unclearified}unclearifieds because such an original application has been filed.

5. Mr. Pathak's further submissions is that the applicants who occupy government quarter at Hapa will, when transferred to Sabarmati and Mehsana, ^{have H}are to wait for allotment of quarters and thus would suffer great hardships. This arguments is not sufficient ^{the H}to question the order of transfer. The applicants can apply to the prescribed authority for permission to retain their respective quarters at their present posting for some time. No rule that employees having Government accomodation should be transferred only to places where Government accomodation exists and can be immediately allotted to them exists. In any case, no such rule is shown to us to challenge the transfer order.

M . n . L

6. In view of our above observations, we see no points in this original application which deserve any further consideration. The application is hereby rejected.


(S. Santhana Krishnan)
Judicial Member


(M.M. Singh)
Admn. Member

ttc.