

No
Transfers

CAT/112

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.No. 38/91

in

O.A. No. 228/91

~~XXXXXX~~

DATE OF DECISION 31.12.1991.

Arjan Kanji Bhayani, Petitioner

Mr. G.A. Pandit, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. R.M. Vin, Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

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?

No

Arjan Kanji Bhayani. Applicant.

V/s.

Union of India & Ors. Respondents.

R.A.No. 38/91

in

O.A.No.228/91

Date: 31-12-1991.

Decision by circulation

Per: Hon'ble Mr.M.M.Singh, Member(A).

The above review application dated 30.8.1991 has been submitted on cause list for 27.11.1991.

2. The principal ground advanced for filing the application to seek review of our order dated 30.7.1991 made in O.A.No.228/91 is that the applicant has been, after our order, able to procure copy of Railway Board circular on the subject of periodical transfers.

3. The applicant has filed the affidavit as required by notification No.A-11019/44/87 dated 26.2.1991 issued by the Government of India (Department of Personnel & Training).

4. It is averred in the review application that the applicant has been able to procure copy of the Railway Board circular issued by the Ministry of Railway for the purpose of periodical transfer addressed to all Divisional Superintendents. This is supported by the affidavit. Every word of the said circular annexed to the review application is reproduced below:

"

Note

Confidential
No. EP.839/1.

BVP.Dt.10/4/90.

Sub: Periodical transfer of Railway employees.

A list of sensitive posts is enclosed for information, guidance and necessary action.

It is requested that instructions regarding periodical transfer of staff holding sensitive posts and who frequently come into contact with public and/or contractors/suppliers are implemented in total spirit. Such of the staff who have less than 2 years to superannuate, should be excluded from the perview of periodical transfer unless there are complaint from vigilance angle against them. Please also ensure that the instructions are implemented in a gradual phase and selected manner so that mass transfers could be avoided adhering also that staff are not able to develop vested interest for continuing very long on a sensitive post. Employees with longest stay at the station should be transferred first.

Kindly acknowledge the receipt.

Sd/-
DPO/BVP


All Branch Officers/BVP
c/- OSs : ED.ET. EE. EM : 3 copies each.
c/- ADRM/DRM : for information please."

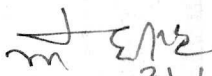
To the above note has been enclosed a paper which is titled "annexure to letter No.E(NG)I/87/TR/34/WFIR/JCM/DS dated 21.9.89. List of sensitive posts identified by the Ministry of Railways for the purpose of periodical transfer".

5. It is clear from the above that what has been produced with the application is no copy of Railway Board's circular as averred but only copy of a note date 10.4.90 issued by DPO/BVP to which note has been enclosed the above annexure. The contents of the letter dated 21.9.89 to which

the annexure above was enclosed have not been shown nor its copy produced. The note gives the clear impression that staff holding sensitive posts who frequently come into contact with public and/or contractors/suppliers are to be transferred and a scheme to effect such transfers in order to avoid mass transfers has been given. There is a guideline with that those left/less than two years to superannuate should be excluded from the perview of periodical transfer unless there are complaints against them. The order of transfer as seen from our order the review of which is sought is dated 10.5.91. The applicant's date of birth is 18.2.1935. He is therefore due to superannuate by the end of February 1993, in slightly less than two years time from the date of issue of the transfer order. The order of transfer takes the applicant from Bhavnagar Para to ^{Junction} Dhola / in the same rank, in the same post against the existing vacancy. Seeing the Western Railway Time table, Dhola Jn., the place to which the applicant has been transferred to, is at a distance of only 47 KMs from Bhavnagar Para, the place from which the applicant is transferred.

6. We see no ground for review as, on the contents and averments in the review application, no case of substantial breach of the guidelines annexed to the application has been made out. The application is therefore rejected in our decision by circulation.


(R.C. Bhatt)
Member (J)


31.12.91
(M.M. Singh)
Member (A)