

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 354 OF 1991.

~~Ex. No.~~

DATE OF DECISION 4-5-1992

Shri M.I. Mangwani, Petitioner

Mr. J.G. Patel, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

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

CORAM :

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

The Hon'ble Mr.

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 ? ✕

Shri M.I. Mangwani,
Joint Secretary, Western Railway
Employees Union,
P.W.I. (B.G)
P.W.I.'s office,
Gandhidham, Kachchh.

..... Applicant.

(Advocate: Mr. J.G. Patel)

Versus.

1. Union of India,
Western Railway Administration,
through its General Manager,
Old Building,
Churchgate, Bombay.
2. Divisional Railway Manager,
Western Railway, Ajmer Division,
Ajmer, State of Rajasthan.
3. Assistant Engineer,
Civil Engineering
Western Railway,
Gandhidham, Kachchh.

..... Respondents.

(Advocate: Mr. B.R. Kyada)

ORAL JUDGMENT

O.A.No. 354 OF 1991

Date: 4-5-1992.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. J.G. Patel, learned advocate for the
applicant and Mr. B.R. Kyada, learned advocate for
the respondents.

2. This application under section 19 of the
Administrative Tribunals Act, 1985, has been filed
by an employee of the Western Railway, ~~was~~ working
as P.W.I., Broad Gauge, Gandhidham. He was also a
Joint Secretary of Western Railway Employees Union
for Gandhidham Branch. He has filed this

application challenging the order of transfer Annexure A-11 dated 13th August, 1991 made by the respondents No.3 dated 13th August, 1991 by which the applicant was directed to handover the charge subsequent to his transfer. The learned advocate for the applicant took me to Annexure A-1 to A-10 to show that the applicant has an extra ordinary meritorious career and has received appreciation letter from the head of the department. He submitted that the impugned order Annexure A-11 is passed at the instances of the leaders of the rival union particularly at the instance of V.K. Sharma. It is alleged by the applicant in his application that this order is malafide, arbitrary, discriminatory and violative of Article 14 & 16 of the Constitution of India. The applicant had made representation to Respondent No.1, Annexure A-12, but according to the applicant, he has not received any reply.

3. The respondents have filed reply to the application contending that no representation had been made and the application now is filed without exhausting alternative remedies. It is further contended that the authority has not considered the representation made by the applicant in the interest of the administration. It is contended

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by the respondents that the respondents have nothing to do with regard to the meritorious certificate issued to the applicant. It is contended that the transfer had been made in the interest of administration and the said transfer ^{was} neither malafide nor arbitrary or discriminatory as alleged. It is contended that the administration has nothing to do with the personal grievance exhausting between two Unions as alleged in the application. It is denied that the transfer was made at the instance of the rival union leader. It is contended that the applicant has resumed as per the transfer order.

4. The applicant has filed rejoinder contending that there is a Government G.R. and circular directing the respondents not to transfer Class III employees on the verge of retirement and there is also a rule in the Railway Establishment rules regarding transfer of the recognized union officer bearer.

5. In the instant case though the averment is made by the applicant ^{about} ~~is~~ malafide but no malafide ^{against} is suggested ~~by~~ any respondents. The learned advocate for the applicant submitted that the applicant had made representation ^{to} ~~by~~ the respondents but they were not considered. It is not in dispute that the representations, Annexure A-12, made to the

General Manager is undated and therefore, it is difficult to know when this representation had been made. The learned advocate for the applicant very strongly denied on the observations made at page 376 of the Book on Railway Establishment Law and Practice by M.L. Jand, 1986 edition as under :

"On Northern Railway it has been decided that transfer of staff from one station to another on the same grade should not as a matter of principle be made within two years of the date of superannuation. (Northern Railway letter No. 930-E/O-III(EIV) Dated 14th March, 1974)".

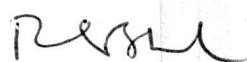
Mr. Patel for the applicant submitted that the applicant is Class III servant and at the time of the transfer from Gandhidham to Marwad Junction in August 1991, he had ~~left~~ ^{left} about three years ~~before~~ ^{for} his superannuation. He submitted that the applicant has ~~no~~ obeyed that transfer and has gone to Marwad Junction and now hardly two years and three months remain for his superannuation. He submitted that the representation of the applicant may be considered sympathetically looking to the fact that he is Class III servant, that he has ~~no~~ resumed at Marwad Junction and that as per the guidelines at page 376 of the Railway Establishment Manual which guidelines according to him would also apply to the Western Railway, the applicant should be brought back to his original station. He puts stress on the

of applicant - who
meritorious career ~~and~~ had received letters of
appreciation from his superiors ~~is~~ ^{and it} considered at the
fag end of his life to put at the original station,
more and more faith and confidence will be revived
for the appointing authorities.

6. The learned advocate Mr. Kyada for the
respondents submitted that the respondents would
certainly consider the representation of the applicant
on all the points and will dispose of according to
law very sympathetically. Hence the following order:

ORDER

The applicant to make representation to the
competent authority of the respondents within 10 days
incorporating all the points for his retransfer to
the original station. The respondents to consider
this representation within three months from the date
of the receipt of such representation, if made,
considering the fact that only two years and a few
months now remains before his superannuation and the
fact that he had the meritorious career, the
respondents to consider this representation
sympathetically of this Class III servant and to
dispose it of according to rules. If the applicant
feels aggrieved by the order, in case it goes against
him, he may approach this Tribunal. Application is
disposed of accordingly. No orders as to costs.


(R.C. BHATT)
Member (J)