

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No.633 of 1996

Present: Hon'ble Dr. B.C. Sarma, Administrative Member

DINESH SINGH

VS

UNION OF INDIA & ORS.

For the Applicant : Mr. M.A. Vidyadharan, counsel

For the respondents: Mr. C. Samaddar, counsel

Heard on 17.10.1996

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Date of order: 17.10.1996

O R D E

The dispute raised in this application is about the impugned order of transfer passed by the respondents on the applicant on 15.3.1996 whereby he has been transferred from Monghyr to Uren Railway Station. The applicant contends that earlier he had to file an OA bearing No.1085/90 regarding a disciplinary proceeding instituted by the respondents against him which was protracted for a long period and by an order dated 8.9.95, by which the said OA was disposed of, the Division Bench of this Tribunal had quashed the order of the disciplinary authority as well as the appellate authority thereon. It is the contention of the applicant that the respondents wanted to punish him by way of transfer. In the transfer order there were other persons who were also transferred but three persons specifically who were under order of transfer, viz., Shri S.K. Singh, Shri S.L. Tanti and Shri I. Yadav were shown some favour by the respondents. For instance, Shri Singh was also ordered to be transferred, but he was retained for the time being by the respondents at the same place, although Shri Singh had completed more than 10 years in the same place. In the case of Shri S.L. Tanti and Shri I. Yadav the original orders transferring them to other places were changed and the new places of posting were given by the respondents. The applicant also represented against that, but it was not replied

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to. In fact, the first representation was filed by the applicant on 18.3.96 and thereafter it was followed by other representations as well. The applicant contends that while persons who had put in longer period of service than the applicant at the same place have been retained, he has been transferred to a new place. This shows that the transfer order is discriminatory. It is also his averment that he is a chronic patient of Menier's disease i.e., a type of neurological disorder as a result of which has been under constant medical treatment of the Medical Superintendent, Jamalpur and he has enclosed copies of the medical certificate. The applicant contends that Uren is a wayside Railway station, where not even basic medical facilities are not available and he will get no medical treatment if he is transferred to that place. It is also his contention that his only daughter is reading in Class XII under CBSE and in the interest of education of his daughter he also should not be transferred. Being aggrieved by the transfer, the instant application has been filed with the prayer that a direction be issued on the respondents to cancel and or withdraw the impugned order of transfer and he be allowed to stay in the same place.

2. The applicant has also filed a supplementary application which is, however, not available in the record, but it appears that a reply has been filed by the respondents to the said supplementary application.

3. The case has been contested by the respondents by filing a reply to the original application as well as to the supplementary application. The respondents have denied that the transfer order is malafide or arbitrary or discriminatory. The respondents have taken the stand that since the applicant had stayed more than 7 years at Munger he has been transferred as he became due for transfer after completion of four years at a particular station. The respondents have taken the plea that if on the medical ground an employee is allowed to stay in a particular station year after year, the operation of the train running system will be badly affected in as-much-as there will be

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no Station Master in the road side stations. As regards the recommendation made by the DRM in para 3 of the application, the respondents contend that it is the common practice that on application against transfer, DRM generally writes "Please see". The respondents have, therefore, prayed for the dismissal of the application on the ground that it is devoid of merit.

4. During hearing Mr. Samaddar, learned counsel for the respondents cited a decision of the Hon'ble Apex Court in S.L. Abbas' case, reported in 1993(1) SCSLJ 371. Mr. Samaddar also cited the decision of the same Court in the case reported in 1995(1) SLJ 350.

5. The matter has been examined by me carefully after hearing the submissions of the learned counsel of both the parties and perusing the records and considered the facts and circumstances of the case. The applicant, as it appears, has spent about 7 years at Munger as Asstt. Station Master. It appears that for filing the OA 1085/90, which was disposed of by a judgment in 1995, the applicant was not transferred from Munger. However, by the impugned order he has been transferred to Uren. The applicant has taken the plea that at least two persons on their own seeking were transferred by the respondents to Munger and as a result to that he has been transferred from Munger to Uren. Since, however, it is a routine transfer and the applicant has spent about 7 years at the same station, it cannot be said that nearly because certain transfers were ordered on own request, the impugned transfer order either malafide or discriminatory. However, I note that the applicant is a neurological patient, as would be evident from the various annexures which are given by the competent medical Officer, Eastern Railway, Munger. Uren is a way side Railway Station where there is no adequate medical facility. In view of the prolonged ailment suffered by the applicant, it is desirable that the applicant is transferred only to a place where there is ^{an} adequate medical facilities for his effective treatment. This point has been taken by the applicant in his representation. The applicant also contends that the DRM, Malda has recommended his representation. There is no document produced by him to that effect. It is also true that the respondents themselves have not been produced the original document on which there is purported recommendation of the DRM. The applicant has also taken the plea that his only

daughter is reading in Class XII and she is going to complete the Class XII course next year under CBSE and he should allowed to cotinue in the same place till the completion of examionation. Another contention tht has been made by the applicant is that Shri S.K. Singh who had completed 10 years in the same place has been retained in the same place for the time being. All these points have been made by the applicant in his representations which have not yet been disposed of . It is, therefore, appropriate that the application is disposed by giving a suitable direction on the respondents in the matter.

6. In view of the above the application is disposed of with the order that the respondents shall consider the representations filed by the applicant against the impugned order of transfer within a period of two months from the date of communication of this order, whereby they shall also pass a speaking order within the same period. In passing the said speaking order and considering the representations filed by the applicant, the respondents shall duly consider the variou -s points taken by the applicant and also the observation made by me in this judgment. The result of such consideration shall be conveyed to the applicant within a period of 15 days from the date of taking such decision. No order is passed as regards costs. I further direct that the respondents shall permit the applicant to continue in the same place till his representtions are not disposed of on the line given above.



(B. C. Sarma)

MEMBER (A)

17.10.1996