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Date of Decision: 13.8.96

OA 72/96

Narendra Singh

... Applicant

Versus

Union of India and others

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. V.K. Agarwal

For Respondents Nos.1,1A,2 & 4

... Mr. V.D. Vyas

For Respondent No.3

... Mr. S.L. Jain

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Narendra Singh, in this application u/s 19 of the Administrative Tribunals Act, 1985, has challenged the order, at Ann.A-1, dated 19.2.96, by which respondent No.3 i.e. Assistant Station Master, Sri Ganganagar, on promotion has been posted as Station Superintendent, Sri Ganganagar, instead of Station Superintendent, Sri Karanpur, and the transfer order, at Ann.A-5, by which the applicant was transferred and posted at Sri Karanpur, as Station Superintendent grade Rs.2000-3200 (RPS), on administrative grounds.

2. We have heard the learned counsel for the parties and have carefully perused the records. They have agreed to this matter being decided at the stage of admission.

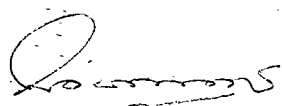
3. On promotion to the post of Station Superintendent from that of Assistant Station Master, the applicant was posted at Sri Ganganagar. He joined there on 12.1.96. Subsequently, by virtue of promotion/posting order, vide Ann.A-2, respondent No.3 was also posted as Station Superintendent at Sri Karanpur despite the fact that he had been posted at Sri Ganganagar for the last 19 years, since 1977, and he had a longer stay at Sri Ganganagar. When the applicant joined at Sri Ganganagar, on 12.1.96, respondent No.3 proceeded on leave on the ground of sickness. The contention of the applicant is that respondent No.3 feigned illness to influence respondents Nos.1 to 4 for securing his transfer back to Sri Ganganagar. The applicant belongs to Scheduled Caste and his averment is that the orders, at Anns.A-1 and A-5, were passed in violation of the provisions contained in Ann.A-4, which provides that a member of Schedule

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Caste is to be accommodated nearest to his native place. The applicant has impugned the aforesaid orders on the ground that these were passed with a view to accommodating respondent No.3 at Sri Ganganagar. The respondents have contested this application and they have stated that before approaching this Tribunal, the applicant had not exhausted the remedy of representation against the order of transfer, as envisaged by Section 20 of the Administrative Tribunals Act, 1985.

4. The learned counsel for the applicant, instead of pressing this application on merits, wants to make a representation to respondent No.1. He has stated that the representation ought to be decided by respondent No.1 through a detailed speaking order on merits keeping in view the decision rendered by the Hon'ble Supreme Court in the case of Union of India and others v. D.Mohan and others, reported in JT 1995 (2) SC 244. The learned counsel for the respondents do not object to this course of action.

5. We, therefore, dispose of this OA, at the stage of admission, with a direction to respondent No.1 i.e. the General Manager, Northern Railway, Baroda House, New Delhi, to decide the representation of the applicant, if the same is made by him within a period of one month from the date of this order, on merits through a speaking order keeping in view the decision of the Hon'ble Supreme Court, cited supra, within a period of three months from the date of receipt of the representation from the applicant. If the applicant is aggrieved by the decision taken on his representation, he shall be at liberty to file a fresh OA. Let a copy of the OA and the annexures thereto be sent alongwith a copy of this order to respondent No.1. No order as to costs.

  
(S.P. BISWAS)  
ADMINISTRATIVE MEMBER

  
(GOPAL KRISHNA)  
VICE CHAIRMAN

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