

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Date of order : 22.2.2000.

O.A.NO. 201/98

Bhanwarlal S/o Shri Gopi Ram aged about 38 years, R/o Vill. and PO Loha The. Rattangarh, Distt. Churu, at present employed on the post of Road Mate (also known as Works Mate), in the office of Assistant Engineer, Rattangarh, Northern Railway.

.....Applicant.
VS.

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Superintending Engineer (C), Northern Railway, Bikaner Division, Bikaner.
3. The Assistant Engineer, Northern Railway, Rattangarh.

.....Respondents.

CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

Mr.J.K.Kaushik, Advocate, for applicant.

Mr.S.S.Vyas, Advocate, for respondents.

PER MR.A.K.MISRA :

The applicant has challenged the order of respondent No. 2 dated 6.8.98 (Annex.A/1) by which he was transferred along with post from Ratangarh to Sadulpur on the grounds that the transfer order has been passed at the instance of the trade union, the transfer is a mid term (school session) transfer and there is no administrative exigency involved in the transfer. He has also challenged the transfer order on the ground that the applicant came on own request transfer to Ratangarh only three months back, therefore, transferring him again within three months is arbitrary

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and violative of Articles 14 and 16 of the Constitution of India.

2. The applicant had prayed for interim relief of staying the operation of transfer order.

3. After considering the prayer of interim relief, the operation of the impugned transfer order Annex.A/1 was stayed and notices were issued to the respondents.

4. The respondents have filed their reply in which it is stated that due to assessment of work-load the post on which the applicant was working at Ratangarh was found to be surplus, therefore, the applicant was transferred to Sadulpur along with the post. The transfer is on administrative exigency and is not at the instance of Unions as mentioned in the letter Annex.A/1.

5. We have heard the learned counsel for the parties and have gone through the case file.

6. It was argued by the learned counsel for the applicant that respondent No. 2 is not competent to create or abolish the post of Road Mate and, therefore, he could not transfer the post to the new station. On the other hand it was argued by the learned counsel for the respondents that within the Division respondent No.2 was competent to transfer the post from one Sub Division to another Sub Division. We have considered the rival contentions. Earlier the applicant was transferred from Suratgarh along with his post to Ratangarh by the same authority i.e. respondent No.2. The same authority i.e. respondent No.2 has now transferred the post from Ratangarh to Sadulpur. The learned counsel for the applicant could not show that respondent No. 2 was not at all competent to transfer the post. In view of the fact that earlier the same authority had

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transferred the post from Suratgarh to Ratangarh, argument as advanced by the learned counsel for the applicant is not tenable.

7. It was next argued by the learned counsel for the applicant that transfer was a mid term transfer. But now in our opinion this ground does not survive because the operation of transfer order was stayed vide order dated 17.8.98 and since then the applicant is continuing at the present station. The educational session for the year 1998-99 has long come to an end. Rather another educational session has also almost come to an end and, therefore, the applicant cannot now say that the transfer was mid term transfer.

8. The applicant had come to Ratangarh on request transfer in May 1998 and since then has completed almost one year and nine months. There is nothing on record as to what were the domestic difficulties considering which the applicant was transferred to Ratangarh therefore, this ground is not now available to the applicant. The applicant has been continuing on that station due to stay order passed by us. We hope by now he must have over-come his domestic difficulties.

9. It is a settled principle that transfer order made in administrative exigency cannot be interfered with. In this case non availability of work at Ratangarh and availability of work at Sadulpur can be considered as administrative exigency for transferring the applicant along with the post from Ratangarh to Sadulpur. In the order Annex.A/1 it has been clearly mentioned that there is no Road Mate at Sadulpur Sub Division as per the cadre position, therefore, the order cannot be held to be mala fide simply because it also mentions that Unions oppose posting of Road Mate at Ratangarh. It may just be possible that Unions might be opposing posting of Road Mate at Ratangarh because no work for Road

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Mate may be available at Sadulpur. Therefore, arguments of learned advocate for the applicant in this regard do not carry much weight. In our opinion, the impugned transfer order is not liable to be interfered with.

10. It was in the last argued that the applicant be ordered to be retained at Ratangarh for another three months i.e. upto the current educational session. We have considered this aspect. In our opinion, if the post of Road Mate at Ratangarh has been abolished then there is no point ordering the respondents to retain the applicant at Ratangarh because that would amount to retention of the applicant at Ratangarh without any work being available for him. In any case, the department is free to consider this aspect of applicant's request administratively. We do not propose to impose our decision on this point as has been prayed by the learned counsel for the applicant during the course of arguments.

11. In our opinion, the O.A. deserves to be dismissed and is hereby dismissed with no orders as to cost.

Gopal Singh
(GOPAL SINGH)
Adm. Member

30/2/2000
(A.K.MISRA)
Judl. Member

mehta

Part II and III destroyed
in my presence on 26/9/06
under the supervision of
section officer (1) as per
order dated 22/8/06

Section officer (Record)

R/SB
7/2/2

R/Copy
22/2/06
K/28/2

16 copy
K/28/2