(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

O.A. Nos.207/98
&
208/98

Date of Order: 12.11.1998

(1) Virendra Kumar s/o Shri Khoob Chand, r/o 1/22, Madhuban Housing Board, Basni, Jodhpur, presently working as Helper/Khalasi, c/o Chief Carriage and Wagon Dept., Northern Railway, Jodhpur.

Applicant in O.A. No.207/98

(2) Sohan Lal s/o Shri Simath Lal, r/o Khatik Colony, Mahamandir, Jodhpur.

(3) Babu Lal s/o Shri Mangtu Ram, r/o Dr. Ambedkar Colony, Pratap Nagar, Jodhpur.

(4) Raju Ram s/o Shri Ganesh Ram, r/o L-44-D, Old Loco Shed, Jodhpur.

All working as Helper/Khalasi, Carriage and Wagon Dept., Northern Railway, Jodhpur.

Applicants in O.A. No.208/98

Mr. K.K. Shah, counsel for the applicants.

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railways Manager, Northern Railway, Jodhpur.
3. Divisional Personnel Officer, Northern Railway, Jodhpur.
4. Chief Carriage and Wagon Supdt. Northern Railway, Jodhpur.
5. Divisional Chief Mechanical Engineer, Northern Railway, Jodhpur.

... Respondents

Mr. K.K. Shah, Counsel for the applicants.

Mr. Kamal Dave, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

Facts of the cases in both these applications are same and relief sought is also the same and as such both these applications are disposed of by this single order.

2. Applicants in these Original Applications ~~xxxx~~ filed under Section 19 of the Administrative Tribunals Act, 1985, have prayed for a direction to the respondents to withdraw the impugned transfer orders dated 9.7.1998 (Annx. A/1) in O.A. No.207/98 and Annexure A/1 dated 7.7.1998 and Annexure A/2 dated 9.7.1998 in O.A. No.208/98.

3. Applicants' case is that while working as Helper/Khalasi at Jodhpur, they have been transferred to Barmer vide impugned orders.

4. In both these applications, this Tribunal had passed an interim injunction on 19.8.1998 to the effect that the operation of order Annexure A/1 dated 9.7.1998 is stayed, qua the applicant and the applicant may not be relieved, if not relieved, till the next date. In O.A. No. 208/98, this injunction was vacated vide this Tribunal order dated 28.8.1998 while the stay order continued to operate in O.A. No.207/98.

5. Notices were issued to the respondents and they have filed their reply.

6. We have heard the learned counsel for the parties and perused the records of the case.

(18)

7. The applicants have challenged the transfer order on various grounds, inter alia the following:

(i) The respondents have not followed any policy in these transfers.

(ii) Length of service of other employees has been ignored.

(iii) Other surplus employees were first to be absorbed at Barmer.

(iv) No opportunities of hearing was allowed to the applicants before their transfers.

(v) Mala fide.

8. During the arguments, the learned counsel for the applicants has not been able to show us any policy in regard to transfers. All the contentions put forward by the learned counsel for the applicants were vague and hypothetical. The learned counsel for the applicants has also not been able to prove mala fide in this case. It has been argued by the learned counsel for the respondents that the transfers were purely on administrative grounds. Further, it has been averred that the work of meter gauge coaches stand shifted completely from Jodhpur to Barmer and, therefore, the services of the applicants cannot be utilised at Jodhpur. It has also been pointed out by the respondents that the Bhagat ki Kothi is a seperate unit and the same has been closed on 13.8.1998 and 13 Helper/Khalasi were transferred to Merta, 3

to Barmer and 4 to Pokaran. It has also been pointed out by the respondents that the applicants have not exhausted the remedy available within the department and have directly approached the Tribunal, thus violating the requirement of Section 20 of the Administrative Tribunals Act, 1985.

9. In view of what is stated above, we do not find any mala fide in the impugned transfer orders. We are well aware that the Tribunal cannot interfere with the transfer orders unless it is proved that there is mala fide involved in such transfers or such orders exhibit colourable exercise of powers. Thus both the applications are devoid of any mertit and deserve to be dismissed.

10. Both the applications are accordingly dismissed with no order as to costs. Interim direction granted in O.A. No.207/98 on dated 19.8.1998 stands vacated.

Sd/-	Sd/-
(GOPAL SINGH) MEMBER (ADMN.)	(A.K. MISRA) MEMBER (JUDL.)

प्रमाणित
सत्य प्रतिलिपि

Aviator/

अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर

Part II and III destroyed
in my presence on 5.4.06
under the supervision of
section officer ( ) as per
order dated 29.3.06

Section officer (Record)

Copy given in
OA 207/98