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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
DATE OF ORDER : 24.03.1999.

O.A.NO. 235/1998

Bhagwana Ram S/o Shri Maman Ram, aged about 43 years, R/o C/o Janpriya Pan Bhandar Station Road, Post Office, Sadulpur, Dist. Churu, working as Goods Driver, Northern Railway, Sadulpur.

.....APPLICANT

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Bikaner.
3. Divisional Mechanical Engineer (P.Loco), Northern Railway, Bikaner.
4. Devi Singh, Goods Driver, Northern Railway, Sadulpur, Service is to be made through Respondent No. 3.
5. Divisional Secretary, Northern Railway Mens Union, Bikaner.
6. Divisional Secretary, Uttar Railway Mazdoor Union, Bikaner.

.....RESPONDENTS

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Mr. Y.K.Sharma, Counsel for the applicant.

Mr. R.K.Soni, Counsel for respondents No. 1 to 3.

None present for the respondent No. 4 to 6.

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CORAM :

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

Gopal Singh

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BY THE COURT

The applicant Bhagwana Ram has filed this Application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 22.1.1998 at Annex.A/1 and for issuing a direction to the respondents for transferring respondent No. 4 from Sadulpur to Hissar. By way of interim prayer, the applicant has prayed for staying the operation of Annex.A/1 qua the applicant, till the finalisation of this O.A.

2. This Tribunal had initially stayed the operation till 6.10.1998. On 13.10.1998, the interim relief granted earlier was confirmed till the disposal of the case.

3. Applicant's case is that he is presently posted as Goods Driver at Sadulpur since August 1997. That respondent No. 4 was transferred to Sadulpur on ad hoc basis as a Goods Driver on 12.8.1997 for a period of four months. The ^{official} respondents vide impugned order dated 22.1.1998 have transferred the applicant from Sadulpur to Hissar and the respondent No. 4 has been retained at Sadulpur vice the applicant. The contention of the applicant is that respondent No. 4 was ^{initially} retained at Sadulpur only for a period of four months and he should have been transferred to Hissar instead of the applicant. Transferring the applicant to Hissar is a mala fide exercise of power on the part of the respondents and as such, the impugned order at Annex.A/1 deserves to be quashed.

4. Notices were issued to the respondents and official respondents have filed their reply. Respondents No. 4 to 6 have not filed their reply despite service of notices.

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5. I have heard the learned counsel for the parties and perused the record of the case carefully.

6. The contention of the official respondents is that the applicant has been transferred to Hissar on administrative ground in exigencies of service. It is seen from Annex.A/1 that Shri Devi Singh (Respondent No. 4) was retained at Sadulpur for a period of four months only vide respondents' letter dated 12.8.1997 and if there was any exigencies of work requiring a person to be posted at Hissar, respondent No. 4 should have been transferred to Hissar, instead the applicant has been transferred to Hissar and respondent No. 4 has been accommodated in the vacancy caused by transfer of the applicant. It is thus seen that the applicant has been posted-out of Sadulpur so as to accommodate respondent No. 4 at Sadulpur and not on any administrative ground. This amounts to colourable exercise of power on the part of the official respondents and the same deserves to be deprecated. The contention of the official respondents that Respondent No. 4 is an office bearer of Staff Union and as such he cannot be transferred, is also not tenable in view of the fact that it was known to them when Respondent No. 4 was retained at Sadulpur for four months only. Moreover, the applicant is also an office bearer of All india SC and ST Railway Employees Association.

7. In the light of the above discussion, I find that the O.A. has much strength and deserves to be allowed. The OA. is accordingly allowed and the impugned order dated 22.1.1998 (Annex.A/1) is set aside. In case respondents feel it

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necessary to fill-up a post at Hissar, they will be free to transfer any other person to Hissar.

8. The parties are left to bear their own costs.

Gopal Singh

(GOPAL SINGH)
Administrative Member

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