

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Date of order : 2.12.99

ORIGINAL APPLICATION NO. 265/1999

Chandra Prakash Bhatnagar S/o Harcharan Lal Bhatnagar, S.P.A.II,
Sendra Railway Station, Western Railway, R/o Quarter No. 32-D,
Railway Station, Sendra (Pali).

.....Applicant.

VERSUS

1. Union of India through the General Manager, Western Railway,
Church Gate, Mumbai.

2. Divisional Railway Manager (E), Western Railway, Ajmer.

.....Respondents.

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Mr.B.R.Mehta, Counsel for the applicant.

Mr.Kamal Dave, Counsel for the respondents.

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CORAM :

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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MR.A.K.MISRA, JUDICIAL MEMBER :

The applicant has moved the present O.A. with the prayer that the transfer orders Annex.A/1 dated 13.9.1999 and dated 24.3.1999, Annex.A/2, be quashed and the respondents be directed to post the applicant at Sendra till his retirement. The applicant had also prayed for staying the operation of order Annex.A/1.

2. Notice of the application was issued to the respondents who have filed their reply alleging therein that the O.A. has no merits and deserves to be dismissed.

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

2/12/99

4. The applicant has challenged the impugned transfer orders on the grounds that the transfer has been ordered in the mid educational session. Applicant's two daughters are studying and transfer would disturb their studies. The applicant is due to retire in the first quarter of 2001 and, therefore also as per the departmental guidelines, he is required to be retained at the last posting. The marriage of the elder daughter of the applicant is fixed in the month of January 2000, thus his transfer would cause him great hardship in making arrangements for the marriage of his daughter. He has also challenged the transfer on the ground of his ~~and his~~ wife's illness and has made prayer for cancellation of the same as mentioned above.

5. It is the contention of the respondents that applicant was initially transferred to Abu Road and on his representation and request he was ordered to be posted at Ajmer because the applicant had mentioned in his representation that his wife is undergoing treatment in Railway Hospital, Ajmer and he is maintaining two establishments one at Ajmer and the other one at Sendra. The applicant has been accommodated as per his family circumstances by creating a supernumerary post at Ajmer vide Annex.A/1, therefore, he cannot come round and say that the transfer order is a mid term transfer or that he cannot be transferred during the last two years of his retirement.

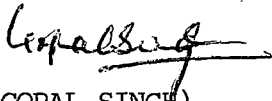
6. Both the counsels elaborated their arguments on the lines of their pleadings which we have duly considered.


7. The applicant has not alleged that his transfer is a mala fide transfer or has been done in violation of the statutory rules and in colourable exercise of power. Normally, a transfer order which is ~~not~~ under challenge on these grounds is not required to be interfered with as per the settled position of law. It is borne out from the file that applicant was initially transferred to Abu Road in the

20/11

month of March 1999 which he did not carry out and prayed to be adjusted looking to the grounds mentioned in his representation. When he was transferred to Ajmer by impugned order Annex.A/1 he has again challenged it as a mid term transfer and in violation of departmental guidelines. But we cannot lose sight of the fact that the impugned transfer order Annex.A/1 was passed after the applicant had represented that his wife is undergoing treatment at Ajmer and his family is living at Ajmer as well as at Sendra. In our opinion, the applicant cannot be allowed to challenge the impugned transfer order as a mid term transfer. Personal inconvenience in carrying out the transfer orders cannot be treated of greater importance than the administrative exigencies relating to the transfer. Sendra is near about 70 kms. from Ajmer and both the stations are well connected by train and bus. During the course of argument, we came to know that applicant had not carried out the transfer order. We do not know whether he stands relieved from his posting at Sendra or is on leave. In any case when the transfer order was made in administrative exigencies the applicant could have carried it out and could have represented. In our opinion, the impugned transfer order cannot be interfered with as per the facts narrated above. The O.A. has no merits.

8. The O.A. is, therefore, dismissed. The parties are left to bear their own costs.


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

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mehta

1/ Sent to Applicant Reg. Aid ~~W~~ Memo 346
at 13-12-99
Sas

2/ Rev Cam
Heaven
8/12

Part II and III destroyed
in my presence on 22/7/96
under supervision of
Secy as per
order dated 22/7/96

Secy Officer (Records)