

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,  
JODHPUR

Date of order : 23.09.99

O.A.No.82/1999

Megh Singh S/o Shri Takhat Singh, aged about 40 years working as Vehicle Driver under the Deputy Chief Engineer (Construction), Northern Railway, Bikaner, R/o L/12-E, Old Railway Colony, Lalgarh, Bikaner.

.... Applicant.

Vs.

1. Union of India through the General Manager, Northern Railway, H.Q. Office, Baroda House, New Delhi.
2. The chief Administrative Officer (Construction), Northern Railway, Kashmiri Gate, Delhi-6.
3. The Deputy Chief Engineer (Const.), Northern Railway, Bikaner.
4. The Deputy Chief Personnel Officer (Construction), Northern Railway, Kashmiri Gate, Delhi-6.

.... Respondents.

.....

CORAM :

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

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

.....

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

Mr.S.S.Vyas, Adv.Brief Holder for

Mr.K.K.Vyas, Counsel for the respondents.

.....

MR. A.K.MISRA, JUDICIAL MEMBER :

By this O.A. the applicant has challenged his transfer from Bikaner to Uddampur and has also challenged the order of Dy. Chief Personnel Officer (Construction) New Delhi, dated 20.10.1998 (Annex.A/1).

2m

2. Notice of the O.A. was given to the respondents who have filed the reply in which it is stated that the applicant was transferred to Uddampur in the month of June 1998. On representation from the applicant, the transfer order was kept pending till October 1998. Thereafter, Annex.A/1 was issued in which it is stated that the applicant who was transferred to Uddampur in the office of Dy.Chief Engineer (C) S&C-1, Uddampur, has reported or not. If the applicant does not report within a week from issuance of this order, the applicant should be directed to report in the office of Assistant Engineer, Northern Railway, Hanumangarh to be posted on the post on which he has lien. It is further contended by the respondents that the applicant cannot challenge the transfer order as a mid term transfer order because he himself had requested for keeping the transfer order pending which was ordered in the month of June. It is further contended by the respondents that there is no instance of mala fide or colourable exercise of power. The O.A. is ill advised and deserves to be dismissed.

3. We have heard the learned counsel for the parties and have gone through the O.A. It is a settled principle in respect of transfer matters that the transfer can not be interfered with unless the same is in violation of statutory rules or guidelines, based on mala fide grounds and is ordered in colourable exercise of power. In the instant case, the applicant has not been able to show any of these basic grounds on which the transfer can be interfered with. It is alleged by the applicant that

Zm

it is a mid term transfer but in our opinion, having requested to keep the transfer order pending which was ordered in the month of June, the applicant cannot come round in October and challenge the same on the ground of mid term transfer. In our opinion, the transfer was made at the end of the educational session and if mid term had arrived in keeping the transfer order of the applicant pending at the request of the applicant then no benefit can be derived by the applicant out of this situation. This situation was in fact applicant's own creation.

4. It is alleged by the applicant that in transferring the applicant to Uddampur, the principles of transferring a junior most or transferring a senior most has not been observed. The applicant is in fact in a position in the seniority list where scores of and below persons are above/him, therefore, the transfer order is bad.

5. We have considered this argument. In our opinion in transferring an employee from one station to another the principle of juniority or seniority cannot strictly be the guiding factor. It is the look out of the administration to locate a man for transfer best suited for the job at the station he had been transferred to. More over in the instant case the seniority list which has been placed on record is a seniority list of Drivers maintained by Construction Division of Northern Railway Headquarter, New Delhi. From this, it cannot be said that the applicant who was stationed at Bikaner was senior most or was junior most. Again

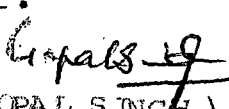
2m

at the cost of repetition, it may be stated that even if the applicant was a senior most or a junior most Driver at Bikaner that does not mean that he cannot be transferred.

6. Lastly, it was argued by the learned counsel for the applicant that in an earlier O.A. registered at Number 336/1994 which is pending, status quo was ordered to be maintained in respect of all the three applicants present in which the applicant was also one of the applicants. Therefore, he cannot be disturbed from Bikaner. We have considered this aspect also but we are not convinced that the impugned transfer is in violation of the order of this Tribunal directing the respondents to maintain the status quo. From the O.A. it appears that the applicant and two others had filed the earlier O.A. against their proposed reversion to the post of Group 'D', whereas at that time they were working on the post of Driver. It was against this proposed action of the respondents that status quo was ordered to be maintained. Meaning thereby that the applicants of that case were not to be reverted. That does not mean that from Bikaner those persons cannot be transferred even on the equal ranking post. The applicant in the instant case has been transferred as a Vehicle Driver to Uddampur Division therefore, the transfer order cannot be treated to be violative of the direction of this Tribunal.

7. In our opinion, the O.A. bears no merit and deserves to be dismissed.

8. The O.A. is, therefore, dismissed. No orders as to cost.

  
( GOPAL SINGH )  
Adm. Member

  
23/9/99  
( A.K. MISRA )  
Judl. Member

.....

mehta