

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

.....

Date of order : 12.7.2000

O.A.NO.136/1999

Punam Singh S/o Shri Nathu Singh, aged about 49 years, at present posted as D.C.M.I. (Western Railway), at Marwar Junction.

.....Applicant.

VERSUS

1. The Union of India, through the General Manager, Western Railway Headquarters Office, Church Gate, Mumbai - 20.

2. The Divisional Railway Manager, Western Railway, Ajmer.

.....Respondents.

.....

Mr.Avtar Sharma, Counsel for the applicant.

Mr.R.K.Soni, Counsel for the respondents.

CORAM :

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

.....

PER HON'BLE MR.A.K.MISRA :

The applicant has challenged the impugned transfer order dated 25.5.99, Annex.A/1/a, qua him, by filing this O.A. By this transfer order, the applicant has been transferred from Marwar Junction to Gandhidham.

2. Notice of the O.A. was given to the respondents and at the same time, the operation of the impugned transfer order was stayed. As per the interim order, the applicant is continuing at Marwar Junction.

3. The respondents have filed their reply in which it is stated that the applicant is working at Marwar Junction since Jan 1990. When he was promoted to the post of DCMI. ~~he~~ was adjusted at Marwar

8m

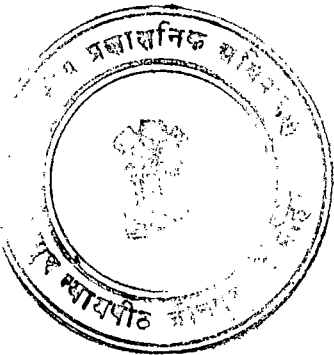
Junction. The transfer of the applicant is a routine transfer on the basis of longer stay. The applicant had given a choice for being posted at Ajmer but nobody has been transferred to Ajmer ignoring the claim of the applicant relating to name noting posting at Ajmer. The claim of the applicant bears no merit and deserves to be dismissed.

4. In this case, a rejoinder was filed by the applicant stating therein that Gandhi Dham falls within the newly created Ahmedabad Division and the applicant on the relevant date could not have been transferred by the Divisional Railway Manager, Ajmer to Gandhi Dham.

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

6. The applicant has not placed on record any notification of Railway Board in respect of newly created Ahmedabad Division, therefore, it is difficult to infer from the pamphlet issued by the Public Relation Officer of Western Railway, dated 25.6.99 (Annex.A/6) that newly created Ahmedabad Division became functional for all operational and administrative purposes w.e.f. 25.6.99 so as to quash the order of transfer Annex.A/1/a of the same date. Whenever a new Division is created such creation is notified by the Railway Headquarters and the date for administrative functioning is fixed. But no such document is available on record. Annex.A/6 filed by the applicant along with the rejoinder in this regard, does not help the applicant as the same is not a notification issued by the Railway Board or the Headquarters of the Western Railway.

7. From the copy of name noting register, Annex.A/2 it appears that the applicant had given choice for Ajmer posting in July 1996. Subsequently, few others also gave choice for Ajmer posting and their names have also been noted in the register. From the transfer



*Handwritten signature or mark.*

order we do not see that any employee has been transferred as per his name noting to Ajmer ignoring the claim of the applicant for Ajmer posting. In this respect it was argued by the learned counsel for the applicant that Shri R.C.Sharma and Shri S.S.Gupta, who were working as DCMI in Ajmer have been adjusted in Ajmer itself though, Shri R.C.Sharma, had remained posted at Ajmer for number of years and thus the name noting procedure has been violated. We have considered this argument. In our opinion, if two persons working at a particular station are adjusted against each other then the same cannot be a ground for cancellation of the transfer of the applicant. The law relating to transfer is almost settled now. Transfer order can only be interfered with if the same is mala fide one or has been ordered in colourable exercise of power. No such facts are available in the O.A. in the instant case. This is also settled that it is for the competent authority to decide as to who should be posted at what place and when. If Shri Sharma and Shri Gupta have been adjusted at Ajmer, the applicant cannot be heard to say that one of them should have been transferred out of Ajmer in order to accommodate him, as per his name noting choice. The applicant remained posted for almost 9 years at Marwar Junction, therefore, his transfer can be viewed as a routine transfer as per his long stay. The applicant has stated in O.A. that his family is residing at Ajmer to lookafter his aged parents. If this be so, the applicant <sup>can</sup> make a representation to the authorities concerned for his adjustment as per availability of his cadre post. At the growing age of a Government servant his parents will become older, therefore, the problem will continue to give an occasion to a Government servant for his adjustment but it may not be possible for the authorities to adjust such Government servant every now and then. Transfer being an incident of service, has to be faced with the accompanying inconveniences. In the instant case, we do not find any cogent reason for interfering in the transfer matter. In spite of the impugned transfer order, the



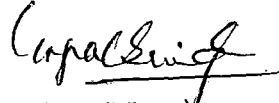
20m

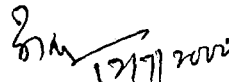
.4.

applicant has remained at Marwar Junction due to the interim stay order. Now, it is time for him to carry-out the transfer order. We do not find any merit in the O.A. and the same deserves to be dismissed.



8. The O.A. is, therefore, dismissed. The interim order passed on 23.7.99 stands vacated. The parties are left to bear their own costs.

  
(GOPAL SINGH)  
Adm. Member

  
(A.K. MISRA)  
Judl. Member

.....

Part II and III destroyed  
in my presence on 3-1-07  
under the supervision of  
section officer as per  
order dated 10/11/06

M. G. D. H.  
Section officer (Records)

Re  
Re  
1217

Recd  
14/7/1