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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 19.09.2001

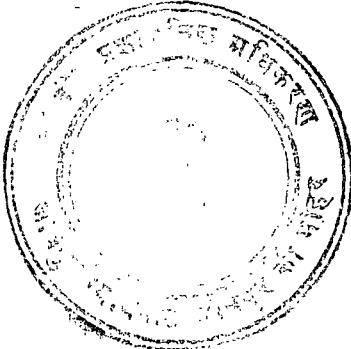
O.A. No. 252/2001

Nanoo son of Shri Jamal Khan aged 46 years, Helper Khallasi (TL) Northern Railway, Sadulpur, r/o. Bhartiya Colony, Behind Hanuman Mandir, Railway Colony, Sadulpur - 331 023.

... Applicant.

versus

Union of India through :



1. General Manager, Northern Railway, HQ Office, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Bikaner Division, Bikaner.
3. Asstt. Personnel Officer, Northern Railway, Bikaner Division, Bikaner.
4. Rajoo Ram Meena, Helper Khallasi (TL), Sadulpur.

... Respondents.

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

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed challenging the order of transfer vid Annexure A/1 dated 25.05.2001. By the impugned order, the transfer c 3 persons, by name S/Shri Mahendra, Sri Krishan and Jagdish Prasad, i cancelled and the persons, by name S/Shri Radhey Shyam, Nanoo ar

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Sulaiman Beg has been transferred in their places. The contention of the applicant is that he was redeployed in Electrical branch and posted as Helper Khallasi (TL) at Sadulpur on 20.09.94. But now he is being transferred by the impugned order from Sadulpur to Lalgarh, and the same is illegal.

2. The learned counsel for the applicant elaborated the case of the applicant, contending that as per the revised cadre strength list dated 25.04.2001 (Annexure A/2), the cadre strength at Sadulpur is reduced from 29 to 15, and as a result, 14 posts are considered to be surplus, and the persons occupying those posts are being transferred to some other places. But the applicant should not have been transferred. He contended that one Shri Ajmal Hussain challenged his transfer from Sadulpur to Suratgarh, and he has obtained a stay order from this Tribunal by filing O.A. No. 155/2001, and as a result, he has been retained as against the transfer of Shri Mahendra son of Shri Jamna Ram. The applicant's further contention is that he should be retained at Suratgarh against Shri Mahendra, and it is Shri Mahendra, who should have been transferred. Therefore, the impugned transfer order is illegal.

3. From the contention of the applicant, we find that the applicant is simply trying to confuse the issue. We called for the records from the office regarding O.A. No. 155/2001, which is pending for final disposal. From the papers, it is clear that Shri Ajmal Hussain, who obtained a stay order against his transfer in OA No. 155/2001, is senior to the applicant as per the seniority list, the applicant himself has produced at Annexure A/5 dated 29.04.97 in this case. The said Ajmal Hussain also was senior to S/Shri Mahendra, Sri Krishan and Jagdish Prasad. It was in those circumstances, finding a prima facie

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case, stay was granted in OA No. 155/2001. But the applicant being junior to these persons, cannot claim that he should be transferred as against his seniors. Admittedly at Sadulpur, as per the revised cadre strength, 14 persons have been found to be surplus. Earlier the cadre strength of staff at Sadulpur was 29, and now it is reduced to 15, and as such, the resultant position would be that 14 persons are surplus, and they are liable to be redeployed in some other places. But the department has kept in view of the principle that the junior-most person would be transferred as against the seniors. It appears that earlier vide order dated 25.04.2001 filed at Annexure A/1 in OA No. 155/2001, S/Shri Ajmal Hussain, Mahendra, Sri Krishan and Jagdish Prasad were transferred. But later, presumably finding that the present applicant and 2 other persons, whose names are found in the impugned order at Annexure A/1, being junior to S/Shri Mahendra, Sri Krishan and Jagdish Prasad, the transfer order of S/Shri Mahendra, Sri Krishan and Jagdish Prasad is cancelled and the applicant and 2 other persons have been transferred from Sadulpur to Lalgarh. In the entire application, it is not the case of the applicant that S/Shri Mahendra, Sri Krishan and Jagdish Prasad are juniors to the applicant. In the seniority list of Helper Khallasi (TL) dated 29.04.97 (Annexure A/5), we find that S/Shri Mahendra Singh is at sl. No. 14 whereas the name of the applicant is at sl. No. 29, very much below of Shri Mahendra. It appears that there are regular staff in the Electrical Wing and the seniority of the regular staff and the redeployed staff are maintained separately as per the agreement arrived at between the two recognised Unions and the department, as indicated in Annexure A/5. According to the averment of the applicant himself in Para 4.10, S/Shri Ajmal Hussain and Jagdish Prasad belong to their parent Electrical Branch. But the applicant is the redeployed staff in the department with separate seniority. The applicant admittedly is junior to S/Shri Mahendra, Sri Krishan and Jagdish Prasad. Therefore, the applicant and



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2 other persons have been transferred by cancelling the transfer of his seniors. It is in these circumstances, the impugned order has been issued, modifying the earlier transfer order dated 25.05.2001. The applicant purposely has not filed the earlier transfer order dated 25.04.2001 in the present application only to create confusion and seek interim order at the hands of this Tribunal.

4. Moreover, it is not the case of the applicant that the impugned order was passed by any incompetent authority or it is contrary to any rule of the Department. He has also not alleged any malafide against any authority. Hon'ble the Supreme Court has from time to time declared the law that the transfer being an incidence of service, does not call for any interference at the hands of the Courts.

5. For the above reasons, we do not find any merit in this application. Accordingly, we pass the order as under:-

"The application is dismissed at the stage of admission."

Gopal Singh
(GOPAL SINGH)
Adm. Member

Justice B.S. RAIKOTE
(JUSTICE B.S. RAIKOTE)
Vice Chairman

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