

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

O.A. No. 325/2001

Date of order 09.01.2002

B.S. Kasana son of Shri Nathu Singh, aged about 53 years, resident of Qtr No. 4001, Railway Colony, Jalore, at present employed on the post of Section Engineer (P Way) (under suspension), Jalore, Northern Railway.

...Applicant.

V E R S U S

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Shri Alok Mishra, Divisional Engineer Headquarters, Northern Railway, Jodhpur Division, Jodhpur.
3. Divisional Superintending Engineer (Co-ord), N/Rly, Jodhpur Division, Jodhpur.
4. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.
5. Shri V K Pathak, Senior Section Engineer (P-Way), Sadra Road Railway Station, N/Rly.

...Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. Anil Mehta, Counsel for the respondents.

CORAM:

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

BY THE COURT:

The applicant was initially suspended vide respondent's letter dated 16.07.2001 (Annexure A/3). This order of suspension was challenged before this Tribunal and this Tribunal vide order dated 16.08.2001 passed in OA No. 214/2001, stayed the operation of the suspension order dated 16.07.2001. The respondent department thereafter issued fresh suspension order dated 11.10.2001 (Annexure A/7) and this further transferred the applicant from Jalore to Jodhpur. This transfer order has been filed in this OA on the ground that he

cannot be transferred while under suspension. This order was stayed by this Tribunal vide interim order dated 27.11.2001. The respondents have filed reply today and it is contended by them that the applicant has been charge-sheeted on many times earlier and therefore he has been transferred to a different place. Presently he is facing a chargesheet for major penalty.

2. I have heard the learned counsel for the parties and perused the record in this case carefully.

3. In terms of Government of India's instructions dated 08.09.1956 printed under chapter 3 - suspension-general instructions of Swamy's Compilation of CCS (CCA), Rules, it is provided that the Headquarter of Government servant should normally be assumed to be his last place of duty. It has further been provided that where an individual under suspension request for a change of Headquarters, there is no objection to a competent authority changing the Headquarters if it is satisfied that such a course will not put government to any extra expenditure like grant of Travelling Allowance etc. or other complications. It has further been stipulated vide Government of India's letter dated 07.09.1965 that if the presence of the Officer is considered detrimental to the collection of evidence etc. or if he is likely to tamper with the evidence, he may be transferred on revocation of the suspension order. In this case, the applicant has been transferred to a different station while he is under suspension. This action on the part of the respondents is not covered by the rules and regulations framed by the Government of India and therefore cannot be sustained. The applicant has also pointed out that his two sons are studying in Jalore though the respondents have contested this aspect and having pointed out that one of his sons has been rusticated. In that

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event also the second son is continuing his studies at Jalore and this transfer was ordered in the month of November, 2001 i.e. during the mid-academic session. In the light of above discussion, I am of the considered view that the transfer order (Annexure A/1) is not sustainable and is liable to be quashed. Accordingly I pass the order as under:

The OA is allowed and the impugned order dated 20.11.2001 (Annexure A/1) is quashed and set-aside. Our interim order dated 27.11.2001 staying the operation of this order is hereby confirmed. No order as to costs.

(Signature)
(GOPAL SINGH)
Adm. Member

Record

DSR

Ad

18/1/2002

Reed (op)

Date
24/01/02

Part II and III destroyed
in my presence on 26-6-02
under the supervision of
Section Officer (J) as per
order dated 6/1/02

Section Officer (Record)