

1/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

JODHPUR BENCH, JODHPUR

Original Application No. 238/2003

Date of Order: 05.11.2003

Vasundhra Sharma W/o Late Shri Harish Sharma, Age 47 years, R/o Quarter No. T-16-F, Railway Colony, Abu Road, District Sirohi.

Post:- The applicant is presently holding the post of Senior Ticket Collector at Abu Road in the respondent department.

..Applicant

V E R S U S

1. The Union of India, through the General Manager North-West Railways, Jaipur

2. The Divisional Railway Manager, (Establishment), North-West Railways, Ajmer

The Divisional Commercial Manager (Establishment), North-West Railway, Ajmer

The Station Superintendent, Railway Station, Abu Road, District Sirohi.

..Respondents.

Mr. Kuldeep Mathur, counsel for the applicant.

Mr. Salil Trivedi, counsel for the respondents.

CORAM:

HON'BLE Mr. J. K. KAUSHIK, JUDICIAL MEMBER

HON'BLE Mr. G.R. PATWARDHAN, ADMINISTRATIVE MEMBER

: O R D E R :

PER MR. J.K. KAUSHIK, JUDICIAL MEMBER

Smt. Vasundhra Sharma has filed this Original Application assailing the order dated 15.05.2003 (Annexure A/1) and letter dated 04.07.2003 (Annexure

A/2) by which she has been ordered to be transferred from the post of Senior Ticket Collector, Abu Road to the same post at Marwar Junction.

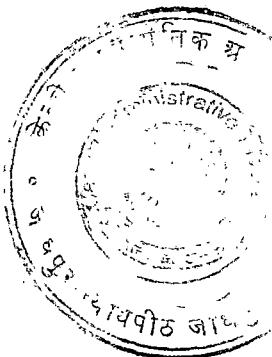
2. The brief facts of the case are that the applicant was initially appointed on compassionate ground at Abu Road on the post of Senior Ticket Collector in July 1994. She has been ordered to be transferred from Abu Road to Marwar Junction vide order dated 15.05.2003 (Annexure A/1). The post of Head Ticket Collector has been down graded at Marwar Junction. It is also averred that representation was moved to the respondents for cancellation of the transfer order, looking to the family circumstances but the same came to be rejected vide order dated 04.07.2003 (Annexure A/2). The matter was again taken up to the Authorities narrating therein the peculiar domestic problems faced by the applicant in as much as her mother is blind and son is aged about 10 years. She is also suffering from hypertension and acute blood sugar. At one occasion even she was promoted to the post of Learning Road Ticket Collector but she could not avail promotion due to her peculiar circumstances. The Original Application has been filed on number of grounds which shall be discussed in later part of the judgement.

3. The respondents have filed a detailed reply to the Original Application and have rigorously contested the case. In reply, the main defence of the respondents is that the applicant's transfer has been made in accordance with the periodical transfer policy and ~~to the another~~ ^{transfer} order has been issued by the Competent Authority. The general preposition of law on the transfer has also been enunciated. It is also averred that the family circumstances of an employee do not give any legal right for continuing a particular person at a particular place. Hence, the Original Application may be ordered to be dismissed with costs. No rejoinder has been filed on behalf of the applicant.

rejo

4. With the consent of the learned counsel for the parties, we have heard this case for final disposal at admission stage and have carefully perused the pleadings and the records of this case.

5. The learned counsel for the applicant has been fair enough in putting up of the case of the applicant and has submitted that the applicant is faced with a peculiar domestic problems and her family circumstances did not warrant her to move out from Abu Road in such circumstances. He has also endeavoured to submit that she is working against clear vacancy at Abu Road and no one has been posted vice her at Abu Road. The respondents could have very well accommodated her at Abu Road. It is also argued that her representation has been turned down vide Annexure A/2 without giving any cogent reason and even the grounds mentioned in her representations were not considered.

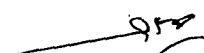


6. On the contrary, the learned counsel for the respondents has reiterated the defence as set out in the reply and has been submitted that the applicant has been transferred basically in the exigency of service and in the interest of administration as per the periodical transfer policy. She has been continuing at Abu Road for about nine years whereas in normal course she ought to have been transferred after completion of about 4-5 years. Since the transfer of the applicant has been made in the interest of administration, this Tribunal would not like to interfere with the transfer of the applicant; the scope of judicial review such matter very limited.

7. We have considered the submissions made on behalf of both the parties and are of the opinion that the plea raised in the Original Application could be the plea of clemency and no legal right of the applicant has been infringed or violated. It is not a case that any malafide has been alleged or there is any perversity in the action of the respondents. We subscribe the views of learned counsel for the respondents that no interference is called for in the instant case from this Tribunal. However, the applicant is a widow and she has been given

appointment on compassionate ground and the respondents have already shown so much sympathy to the family of the deceased Government servant earlier and it is expected that the respondents shall make efforts to accommodate her at as some nearby place by using their good offices and in this respect they may consider the representation of the applicant already pending with them preferably within a period of about two months. However, since the transfer is an incident of service, we would not like to give any direction to the respondents in this matter.

8. In the premises, the Original Application does not have any merit or substance and the same therefore stands dismissed subject to our observation made in the aforesaid para. There shall be no order as to costs.


(G.R.PATWARDHAN)
Administrative Member


(J.K.KAUSHIK)
Judicial Member

Kumawat

Part II and III destroys
any reliance on
any supervision of
such effects (1) as per
Part II and (2) as per
Part III.

Sectica officer (Record)