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CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

O.A. NO. 109/2002

Date of Order: 03.09.2002

Nathoo Ram s/o Mohabta Ram, Aged 49 years, Fitter, Northern Railway, Bikaner R/o Near Radio Station, Village and Post Office, Udasar, Tehsil and District Bikaner.

...APPLICANT.

V E R S U S

1. General Manager, Northern Railway,
HQ., Baroda House, New Delhi.
2. Civil. Engineer (HQ), Northern Railway,
Bikaner Division, Bikaner.
3. Asstt. Civil. Engineer, Northern Railway,
Bikaner Division, Bikaner.

...RESPONDENTS.

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

Mr. Manoj Bhandari, Counsel for the respondents.

Coram:

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

O R D E R

BY THE COURT:

Shri Nathoo Ram has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 and has prayed that the impugned order dated 22.03.2002 (Annexure A/1) by which he has been ordered to be transferred alongwith the post as Junior T.L.A. Fitter under PWI, Lalgarh.

2. The brief facts of the case as narrated by the applicant that he belongs to Scheduled Caste and he was engaged as Casual Labour on 07.03.1972 and also attained temporary status on 31.01.1973. On 31.01.1973, he was appointed as temporary Fitter in grade 260-400 and he was posted under Inspector of Works, Lalgarh. Since then he is working on this post and about 30 years have passed he has been continuously working as Fitter under Inspector of Works but suddenly vide order dated 22.03.2002 he has been ordered to be transferred by designating him as a Junior T.L.A. Fitter alongwith post to work under PWI, Lalgarh. There is no reason for his transfer.

3. The Original Application has been filed on number of grounds e.g. at new place of posting, his job of working is going to be changed in as much as there is no post of Fitter under PWI Lalgarh and he would be required to work as a Black-Smith. He has never applied for posting of Black-Smith, his designation has been shown as TLA Fitter which is misconceived his experience of 30 years as Fitter would become futile etc. Hence, this application.

4. The respondents have filed the counter reply to the Original Application and have controverted the facts and grounds raised in the Original Application. It has been submitted that the applicant was absorbed on the post of Khalasi vide letter dated 14.09.1991 (Annexure R/1) and he is working on the post of CPC TLA Fitter on temporary basis. He was put to work on the post of Fitter as per his request made vide Annexure A/2 and he was given the posting as CPC Fitter vide letter dated 27.09.1991 (Annexure R/3). It has also been submitted that the posts of Black-Smith as well as Fitter belong to the same seniority unit and one can be posted against another. There is no major difference between the nature of work. None of the rights of the applicant has been infringed and no cause of action has arisen to the

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applicant to challenge the order of his transfer.

5. I have heard the learned counsel for the parties and have perused the records of this case.

6. The learned counsel for the applicant has reiterated the grounds raised in the Original Application and has stressed on the contention that there is no post of Fitter under PWI Lalgarh and the Assistant Divisional Engineer was not competent to change the post of the applicant. On the other hand, the learned counsel for the respondents has submitted that the applicant has been posted alongwith the post and this is not within the jurisdiction of the Tribunal as to what work should be taken from the particular employee. The applicant has been transferred alongwith the post. He is getting his due salary and he has been posted at Lalgarh which is just about 15 Kms. from Bikaner. There is no malafide alleged against the respondents in issuance of the transfer order.

7. The next argument of the learned counsel for the applicant is that he has been working for over 30 years and still is being considered as T.L.A. and has not been regularised so far on the post of Fitter. The learned counsel for the respondents has submitted that he was regularised on the post of Khalasi in the year 1991 and the matter regarding regularisation is not in issue in this Original Application, and if the applicant wanted his regularisation he would have taken the appropriate action through departmental authorities.

8. I am not persuaded with the arguments of the learned counsel for the applicant that he has in any way adversely affected by the impugned transfer order. There is no change in his status and there is

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no ground to interfere in the impugned transfer order. I do not find any infirmity, illegality and arbitrariness in the transfer order. The Original Application, therefore, is not sustainable. In this view of matter, I pass the order as under:-

" The Original Application does not ^{have} any force and merits dismissal and the same is hereby dismissed. The applicant shall, however, be free to agitate the matter regarding his regularisation/promotion on/to the post of Fitter on which he has been working for last 30 years. No order as to costs."

J. K. KAUSHIK
(J.K. KAUSHIK)

MEMBER (J)

Kumawat