

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 181/2005.

Date of decision:06.02.2006

Hon'ble Mr. Kuldip Singh, Vice Chairman.

Laxmi Narayan, s/o Shri Kishori Lal Ji, by caste Kori Shakyawar (SC) aged 51 years, Chief Crew Controller, North Western Railway, Abu Road, Distt. Sirohi (Rajasthan)

: Applicant.

Rep. By Mr. K K Shah : Counsel for the applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Ajmer (Rajasthan)
3. Senior Divisional Mechanical Engineer, North Western Railway, Ajmer (Rajasthan)

: Respondents.

Rep. By Mr. Salil Trivedi: Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

This is an application filed under Sec.19 of the Administrative Tribunals Act, 1985, praying for setting aside of the impugned transfer order dated 02.06.2005, vide which the applicant has been transferred from Abu Road to Ajmer.

2. The facts of the case as deduced from the application are as follows: On promotion from the scale of pay of Rs. 6500-10500 to the scale of pay of Rs. 7450-11500, the applicant was transferred from Mumbai and posted to Abu Road in March 1993 and in July

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2002 he was transferred from Abu Road to Ajmer in the same scale of pay. On request, he was again transferred back to Abu Road vide order dated 09.04.2003, as Chief Crew Controller.

3. Once again vide impugned order dated 02.06.2005, the applicant was transferred to Ajmer to the post of CPCR, in the same scale of pay. This Tribunal vide interim order dated 05.07.2005, stayed the operation of the impugned order dated 02.06.2005. The applicant challenges the transfer on the ground that the post from which the applicant was transferred is still lying vacant and the grounds on which his earlier request for transferring him back to Abu Road still persists; no complaint whatsoever has been made against him and he has completed only two years at Abu Road since April 2003. Besides the other grounds the applicant has also assailed the impugned order on the ground that the impugned order has been issued during the mid academic session.

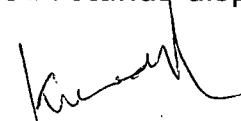
4. The respondents have contested the case and filed a detailed reply controverting the averments made by the applicant. It is stated that the applicant has no legal right to continue at Abu Road when once his request for posting at Abu Road had been acceded to earlier. It is further stated that the applicant has been rightly transferred to Ajmer vide the impugned order due administrative exigency and in government service transfer is an incidence of service. The averments made in the application have generally been denied.

[Signature]

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5. I have heard the learned counsel appearing for both the parties and perused the records. The applicant is challenging the transfer on one of the grounds that his son is studying in XII standard and the transfer is being mid academic session transfer if it is implemented, it would affect his son's study and therefore he should have been allowed to continue at Abu Road till the end of academic year. During the arguments it has been pointed out by the learned counsel for the applicant that since the annual examination of the applicant's son is likely to be completed by 2nd May 2006, the applicant would be willing to join at the transferred place of posting i.e. at Ajmer, by 15th May 2006. Though the learned counsel for the respondents opposed the request of the applicant, the fact remains that the impugned order of transfer was passed during the mid academic session. Since the request of the applicant seems to be genuine and if the applicant is forced to join at Ajmer at this stage, it would definitely be causing prejudice to the studies of the applicant's son.

6. Keeping in view the statement made by the applicant's counsel at the bar and in the interest of justice, I direct that the applicant be allowed to continue at the present place of posting i.e. at Abu Road till 15th May 2006 i.e. till the end of the academic session of the applicant's son and the applicant shall positively join at the transferred place of posting at Ajmer by 16th May 2006. With this observation, the O.A stands disposed of. No costs.



(Kuldip Singh)
Vice Chairman.

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Part II and III destroyed
in my presence on 03/4/14
under the supervision of
section officer (1) as per
order dated 31/01/14

~~Section officer (Record)~~

~~31/4/14~~

Record on
14/2/06
Shalabh
Sanghadas