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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

Original Application No. 52/2007

DATE OF ORDER: 22.03.2007

CORAM:

HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER

Sohan Lal Choudhary s/o Shri Ram Chandraji, aged about 43 years, resident of Plot No. 196, New Pali Road, Bhagat-Ki-Kothi, Jodhpur (presently working on the post of Head Clerk in the Welfare Office of Chief Works Manager, NWR, Jodhpur Workshop, Jodhpur.

...Applicant.

Mr. S.K. Malik, counsel for applicant.

VERSUS



1. Union of India, through the General Manager, North-Western Railway, Jaipur.
2. The Chief Engineer, North-Western Railway, Jaipur Zone, Jaipur.
3. Chief Works Manager, North-Western Railway, Jodhpur Workshop, Jodhpur.

...Respondents.

Mr. Salil Trivedi, Advocate, Caveator for respondents.

ORDER (Oral)

The applicant has sought for the following relief: -

"(a) By an appropriate writ, order or direction impugned orders dated 1.3.2007 at Ann. A/1 & A/2 be declared illegal and be quashed and set-aside, as if they were never issued to the applicant.

(b) By an order or direction respondents may be directed to keep the applicant at Work-shop, Jodhpur with all consequential benefits."

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2. Learned advocate for the applicant argued the matter on the following grounds: -

(i) The applicant reported for duty on 06.03.2007 at Diesel Shed, Abu Road and the DRM office, Ajmer on 07.03.2007 but he was not allowed to join the duty.

(iii) Since he was not allowed to join the duty, he had no other alternate except to approach this Hon'ble Tribunal. Para 4.13 of the O.A. is reproduced as below: -

"4.13. That aggrieved of not joining the applicant on his duty and transfer order applicant has no other alternate except to approach this Hon'ble Court for redressal of his grievances on the following amongst other grounds."

(iii) On being questioned that whether the applicant was issued a duty/transfer pass for his place of transfer viz., Abu Road and subsequent duty pass from Abu Road to Ajmer as well as from Ajmer to Jodhpur. Learned advocate informed that the applicant got a duty/transfer pass from Jodhpur to Abu Road, the applicant used it for his journey to Abu Road. However, no passes were issued for further subsequent journeys from Abu Road to Ajmer and thence to Jodhpur. The applicant performed these journeys on his own.

(iv) Learned advocate for the applicant mentioned that this transfer order is punitive as it was issued out of Union rivalry. In his favour, he quoted the following judgments: -

(i) (1995) 31 ATC page 237 (Rajendra Chaubey vs. UOI and ors.)

(ii) 2001 (3) ATJ page 49 (D.K. Gupta vs. UOI & Ors.).

(iii) 2001 (3) ATJ page 449 (S. Hariharan vs. UOI & Ors.)

(iv) 2002 (2) ATJ page 377 (B.K. Katkar and Ors. etc. etc. vs. UOI & Ors.).

(v) 2004 (3) ATJ page 97 (K.P. Prasad vs. UOI & Ors.).

(vi) 2004 (3) ATJ page 116 (Shobh Ram vs. State of H.P. and another).

(vii) 2005 (1) ATJ page 104 (Dr. Ravi Shankar vs. UOI & Ors.).

(viii) 2006 (2) ATJ page 191 (Vinod Kumari and others vs. State of Haryana and others).

On the basis of these cases, the learned advocate for the applicant requested for quashing the impugned orders at Annexure A/1 and A/2.

3. Learned advocate for the respondents in his arguments mentioned that the transfer order was issued by the competent authority following the rules and regulations. The impugned order dated 01.03.2007 (Annexure A/1) is an out-come of letter No. 940/HQ/Mechanical/Part-II dated 27.02.2007 of North-Western Railway H.Q., Jaipur. A copy of the order dated 27.02.2007 was also placed on record. While going through this order, it is observed that it has been issued by the Chief Mechanical Engineer (Establishment), clearly mentioning that this order has got the approval of the competent authority. Learned counsel for the respondents further argued that transfer is a normal process. While the Disciplinary action against the applicant is going on, transfer is a separate matter. In support of his contention, learned advocate for the respondents cited the following judgments:

(i) CAT Jodhpur Bench decision dated 27.01.2003 in OA No. 79/2002, 80/2002 and 81/2002 (Chhotu Ram and another etc.etc. vs. UOI & Ors.).

(ii) 2004 AIR (Supreme Court Weekly) page 4548 (State of U.P. and others vs. Siya Ram and another).

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4. From the various arguments it turned out that at one point of time, the applicant was willing to join at his place of posting at Abu Road after having been relieved from Jodhpur. Perhaps, he may have reported there on 06.03.2007. It is also possible that due to some communication gap, he may not have been allowed to join on 06.03.2007. While allowing this Original Application in part, the respondents should issue a fresh duty-cum-transfer pass for carrying out his transfer to Abu Road and ensure that he is allowed to join at his new place of posting without any further delay. Respondents may also inquire whether the applicant reported for duty at Abu Road on 06.03.2007 and was denied for joining. If that being so, he should be considered as waiting for duty from the date of his reporting at Abu Road on 06.03.2007 and he should be paid accordingly. The applicant is directed to carry out his transfer order immediately and any further delay now will be on his part. No orders for costs.

R.Bhandari

[R.R. Bhandari]
Administrative Member

/Kumawat/

R/C
03/26/31/2007
Janay Com
Dagat

Part II and III destroyed
in my presence on 03-06-14
under the supervision of
Section officer () as per
order dated 26-02-14

Section officer (Record)

R/C
Part
26/3/07
(Jasalif farudi)