

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 158/2011

DATE OF ORDER: 21.07.2011

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Smt. Indirani Sen widow of Shri Shekhar Chandra Sen, aged 46 years, Enquiry cum Reservation Clerk, North Western Railway, Jodhpur R/o 30 Laxmi Nagar, Paota, Jodhpur.

...Applicant.

Mr. Vijay Mehta, counsel for applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Jodhpur.
3. Senior Divisional Personnel Officer, North Western Railway, Jodhpur.
4. Senior Divisional Commercial Manager, North Western Railway, Jodhpur.
5. Chief Reservation Supervisor, North Western Railway, Jodhpur.

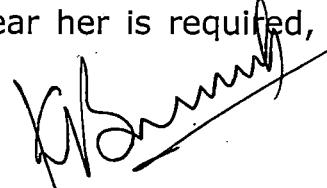
... Respondents.

Mr. Salil Trivedi, counsel for respondents.

**ORDER
(Per Dr. K.B. Suresh, Judicial Member)**

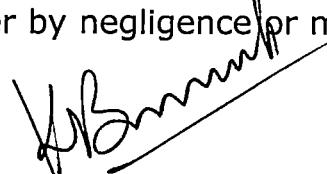
Heard the learned counsels for both the sides and examined the pleadings and records. The matter relates to transfer of the applicant.

2. The applicant is a widow having a daughter aged about 20 years studying in B.Sc. IIIrd year in Lachoo Memorial College of Science & Technology, Jodhpur, and looking into the circumstances prevailing in the country, the existence of a mother, who is a widow, near her is required, and leaving her



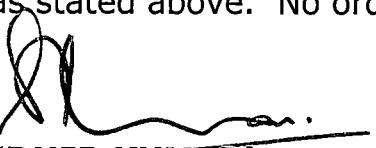
daughter alone at Jodhpur to her transferred place at Jalore, which is about 120 Km. away from Jodhpur, with additional duty of having to leave headquarters once every week to other distant place, cannot be said to be just in view of interest of the daughter. **In such circumstances, the effect of Annexure/3 dated 16.02.2006 and Annexure A/4 dated 10.05.2006 will come into direct effect.** The protection of the same is that the employees will have an effective time to submit a representation, and if at all the representation is not acceptable to the concerned authority, they will have an opportunity and time, from within and from which to adjust themselves by dealing with the process by more than four months. The Railways had issued a transfer policy for its employees after due consideration. We note with concern that applicant's daughter is studying in B.Sc. final year in Lachoo Memorial College of Science & Technology, Jodhpur, and the next year, she would have completed her graduation and therefore, ^{it} would have been ~~she~~ possible for her mother to take her to the transferred place. Keeping in view of this fact, we feel that transfer order is violative of Annexure A/3 and A/4 and it has prejudicial effect on the applicant whereby constitutional mandate under Article 21 is seriously threatened.

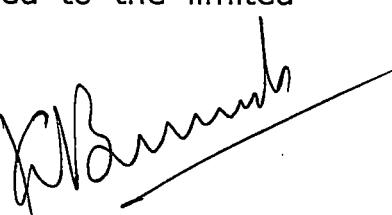
3. The Hon'ble Apex Court had considered that in the mid academic session, where study of children ^{is} affected due to ~~she~~ transfer of their parents, no such transfer is permissible, and as such no transfer is to be made in the mid-academic session. No transfer of a public servant, either by negligence or mala fides of



an authority, be made against the verdict of the Hon'ble Supreme Court. If the authorities fail and thereby cause a prejudice to the employees, it cannot lie. Therefore, the impugned transfer order dated 21.04.2011, qua the applicant, is quashed and set aside, but then we reserve the right of the respondents to consider her transfer in the next academic session.

4. The Original Application is, thus, allowed to the limited extent as stated above. No order as to costs.


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(DR. K.B. SURESH)
JUDICIAL MEMBER

Kumawat/