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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 540 of 1992

Cyan Prakash Srivastava . . . . . Applicant

Versus

Union of India and others . . . . . Respondents

Hon'ble Mr. S.N. Prasad, Member (Judicial)

The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for quashing the impugned transfer order dated 1.10.1992 (Annexure-2), as far as the applicant is concerned, and for further direction to the respondents not to disturb the applicant from his present place of posting.

2. Briefly, stated the facts of this case, inter alia are that ~~xx~~ as the applicant joined on the post of Instructor in June 1987 and presently is posted as permanent Way Inspector under the respondent no. 3, and during his service period he was presently transferred to many places and he ~~obeyed~~ all the transfer orders. In February, 1992 the applicant was transferred on his previous post of permanent Way Inspector (special) in the office of Divisional Railway Manager, Lucknow and he joined this post on 16.6.1992 (Vide Annexure-1), but, though the applicant had not even completed 4 months at Lucknow on his present post, he was transferred ~~xx~~ vide impugned order dated 1.10.1992 from Lucknow to Biswan, District Sitapur (Vide Annexure-2).

3. The main grievance of the applicant appears to be that the impugned transfer order is against the statutory provision and against the policy guidelines (Vide Annexure-3) in as much as the applicant who was on the verge of reaching the age of superannuation and only about two years were left to reach the age of superannuation, the impugned

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transfer order has been passed and as such the impugned transfer order be quashed.

4. In the counter-reply filed by the respondents, the respondents have stated that the application of the applicant has become infructuous because of the fact that the applicant's above transfer order from Lucknow to Biswan has been cancelled by issue of a fresh order dated 1.2.1993 (Vide Annexure-1 to the Counter-affidavit) whereby the applicant has been transferred and posted in the same scale of pay and on the same post of P.W.I. (Special) and has been deputed to work as P.W.I. Gonda and his headquarters shall continue to remain Lucknow.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. The learned counsel for the applicant while drawing my attention to the contents of the application and <sup>~ policy ~</sup> to the guidelines (Contained in Annexure-3) and serial No. 6024, Circular No. 940-E/O-3-E-4 dated 14.3.1974 regarding ~~xxxxxxx~~ transfer of staff nearing superannuation and has argued that the applicant should not have been transferred to any place from Lucknow as only about 2 years are left for him in reaching the age of superannuation and in support of his arguments, has placed reliance on the ruling reported in 1993, L.A.B.I.C. (Supreme Court), Rajendra Roy (Appellant) Vs. Union of India and others (Respondents) at page 446, wherein it has been enunciated that :

" Transfer-Order not passed mala fide or in violation of service Rules or without proper ~~~~~ jurisdiction-cannot be quashed."

7. The learned counsel for the respondents while adverting to the contents of the application and Annexure 1

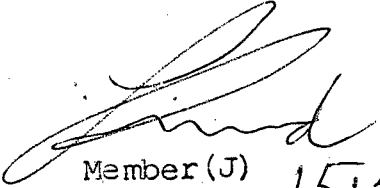
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to the C.A. of the respondents, has argued that since the impugned order dated 1.10.1992 has been cancelled and since the applicant has been re-transferred and posted in Gonda as P.W.I.(special) ~~to Lucknow~~ to look after the work of Gonda as his headquarters at Lucknow, the application of the applicant has become infructuous, as the applicant still continue to have his headquarters at Lucknow.

8. I have perused the above ruling, and also perused the policy guidelines as contained in Annexure-3 and as provided in the aforesaid <sup>Serial ~</sup> ~~Para~~ No. 6024 and I find no merit as the impugned order dated 1.10.1992 has been cancelled by the respondents and the applicant has been transferred and posted on the same post, in the same scale, to look after the work of Gonda having his headquarters at Lucknow and the above ruling is found to be of no avail to the applicant.

9. In the result, the application of the applicant being devoid of force and merit is dismissed. No order as to costs.

  
Member (J) 15.4.93

Lucknow Dated: 15.4.1993

(RKA)