

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO:675/99

Dated, this Thursday the Ninth of December 1999.

Shri D.S.Prakashrao Applicant.

Shri.A.M.Joshi Advocate for the
Applicant.

VERSUS

Division Manager & 2 Ors Respondents.

Shri A.I.Bhatkar Advocate for the
Respondents.

CORAM: HON'BLE SHRI B.N.BAHADUR, MEMBER(A)

- (i) To be referred to the Reporter or not? No
- (ii) Whether it needs to be circulated other Benches
of the Tribunal? No
- (iii) Library? No

B. N. Bahadur
(B. N. BAHADUR)
MEMBER(A) 09/12/99.

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION: 675/99
DATED THE NINTH DAY OF DECEMBER, 99

CORAM: HON'BLE SHRI B.N. BAHADUR, MEMBER(A)

(09-12-99).

Shri D.S. Prakashrao,
residing at M-7 Room No. 1555,
Maharashtra Housing Board,
Nagpur Chawl, Pune-411 006.

... Applicant.

By Advocate Shri A.M. Joshi

v/s.

1. The Divisional Manager,
(Commercial),
Chatrapati Shivaji Terminus,
Mumbai - 400 001.
2. The Divisional Railway Manager,
(Personnel),
Chatrapati Shivaji Terminus,
Mumbai - 400 001.
3. The Divisional Traffic Manager,
Pune Station,
Pune.

... Respondents

By Advocate Shri A.I. Bhatkar

(ORDER)

This is an application made by the applicant, Shri D.S. Prakashrao seeking the relief of a declaration from this Tribunal that the order of transfer dated 2/6/99 is illegal and not binding upon the applicant.

2. The facts of the case, as narrated by the applicant, are that through impugned order, the applicant has been informed that the transfer order/s issued dated 27/10/98, 29/9/98 and 14/8/88 are held in abeyance. The applicant states that the order dated 14/8/97 was, in effect, a punishment order since it stipulated that applicant should be given only non-cash dealing post. A representation was also made and order dated 29/10/98 was issued to say that he was continued at Pune.

Bomb

...2/-

3. Applicant states that he is senior ~~most~~ person in commercial department and hence he must be retained at Pune. Further, the order comes after it was held in abeyance for about 8 months.

4. A reply statement has been filed by respondents opposing interim relief, and praying for rejection of the application. It is averred that the transfer order of the applicant, transferring from Pune to Lonavala was made by the Competent Authority in Administrative Interest and that there is no ground for the cause being agitated before a Tribunal.

5. Respondents state that the applicant was transferred from Pune to Lonavala vide order dated 14/8/97 to a non cash dealing post, which carries the same scale of pay. No loss by way of seniority or payscale is involved. This order was not implemented for some time, but vide order dated 29/10/98, the applicant was again transferred from Lonavala to Pune. An explanation is sought to be made at para-4 of the written statement for this action. The statement goes on to further explain the facts of further transfer orders made in respect of the applicant.

6. I have perused the papers in the case and have heard learned counsels on both sides.

The Learned Counsel for the applicant recalled the sequence of events of the various orders relating to the posting of the applicant, and strenuously made the point that it was on applicant's representation that his initial order of transfer from Pune to Lonavala was changed. Hence, it is strange that after 8

months there is again an order making the transfer order effective. It was argued that the Administration was forgetting the order dated 29/10/98. He also made the point that a perusal of order dated 14/8/97 showed that all requests regarding transfers have been allowed and that he has been singled out for taking a negative view.

7. Arguing the case for the respondents, their Learned Counsel stated that the applicant was not relieved as per the order dated 14/8/97. However, the Head⁶office was not aware of this position. He further stated that the order dated 29/10/98 was "nonest" as the Administration did not know that the applicant was still at Lonavala. This led to the sequence of events leading to the issue of the transfer order dated 5/11/98.

8. An analysis of the facts of the case show that this is a simple matter, and does not require dealing with any law point, or any complicated Administrative issue either. A plethora of orders have come to be issued in respect of the applicant, for his transfer between Pune and Lonavala. I have seen the various orders, as described, and the only central point that emerges from an analysis is the rank inefficiency of the Railway Administration that is evident from the sequence of events. The manner in which the applicant seems to have been forgotten after issue of the first order presents no credit to the Administration; nor does it help matters in the respondents ^{trying} ~~to~~ to explain that the Headquarters were not aware of the fact that the applicant had not been relieved from his post at Pune.

B.S.

9. In spite of all this, however, what needs to be examined here is whether all this gives a right to the applicant to the relief that he seeks. The action has to be examined with reference to the well settled law in regard to interference with transfer orders. It is seen that there is no malice attributed to anyone. The contention of the applicant that he is seniormost, and that the person posted in his place is very junior, does not entitle him to stay at Pune. Further, there is no evidence of the transfer being arbitrary or having violated any rule etc. Thus, there can be no right of the applicant to the relief he seeks. This relief cannot be granted notwithstanding the highly inefficient manner with which his case has been dealt and the fact that unnecessary uncertainty has been allowed to prevail.

10. In view of the above discussions, this application cannot be allowed and is therefore hereby rejected. The remarks made above in regard to the inefficient handling of the case will hopefully be noted to avoid further errors like this. There will be no orders as to costs.

B. N. Bahadur

(B.N. BAHADUR) 09-12-99.
MEMBER(A)

abp.