

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 429/98

Date of Decision: 2.7.1998

M.N. Prasad

.. Applicant

Shri B. Lahiri

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri P.S. Lambat.

.. Advocate for
Respondent(s)

CORAM:

The Hon'ble Shri Justice R.G. Vaidyanatha, Vice-Chairman.

The Hon'ble

(1) To be referred to the Reporter or not ? *no*

(2) Whether it needs to be circulated to other Benches of the Tribunal ? *no*


(R.G. VAIDYANATHA)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 429/ 98.

Thursday, this the 2nd day of July, 1998.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman.

M.N.Prasad,
Qr. No.1/19/4, Belly
Shop, Kamptee Road,
Bejonbagh,
Nagpur - 440 004.

... Applicant.

(By Advocate Shri B.Lahiri)

V/s.

1. The General Manager,
South Eastern Railway,
Garden Reach,
Calcutta - 43.
2. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Calcutta - 43,
3. The Divisional Personnel Manager,
South Eastern Railway,
Nagpur.
4. The Divisional Electrical Engineer
(O.P.) South Eastern Railway,
Nagpur.
5. The Divisional Electrical Engineer(O.P.)
South Eastern Railway, Waltiar,
Vishakhapatnam. ... Respondents.

(By Advocate Shri P.S.Lambat).

O R D E R

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application challenging the order of transfer dt. 4.5.1998. The respondents have filed their reply opposing the application. I have heard the learned counsels appearing on both sides.

2. The applicant ~~who~~ is working as an Electrical Mail/Express Driver, South Eastern Railway at Nagpur. By the impugned order of transfer dt. 4.5.1998 the applicant has been transferred to Waltiar Division. The applicant is challenging the order of transfer on number of grounds.

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The respondents have filed their reply justifying the order of transfer in administrative interest.

3. At the time of the arguments, the learned counsel for the applicant pressed on two points. The first argument is that the applicant is aged about 56 years and transfer at this stage to a different division would cause great inconvenience, hardship etc. It is well settled that personal inconvenience cannot be a ground to quash an order of transfer, if it is otherwise in the interest of public service. The respondents have stated that the applicant has been transferred in the administrative interest. When a person joins a transferable post, the personal inconvenience must yield to a larger public interest. Therefore, it is not a ground on which this Tribunal can quash the transfer order. However, these are the grounds which the administration may take into consideration while deciding the representation of the applicant.

4. Another strong ground which was pressed into Service by the learned counsel for the applicant is that the order of transfer is in violation of F.R. 15. That rule provides that normally an official should not be transferred from one post to another post subject to certain exceptions. The learned counsel for the applicant contends that the present transfer comes within the meaning of F.R. 15. It is pointed out that the applicant is working now as an Electrical Mail/Express Driver, but in Waltiar Division to which place the applicant is now transferred, there is no such Electrical Trains and the applicant will have to

...3.



drive Diesel Trains. Therefore, it is argued that it amounts to transfer from one post to another post which is altogether a different post and comes within the meaning of F.R. 15.

5. The respondents have stated in their reply that the applicant was previously working in the Electrical Train and later he was working in Diesel Train and again transferred to Electrical line. Therefore, in my view, it is not a case of transfer from one post to another different post which is coming within the meaning of F.R.15. A Driver who is working in Electrical line can be Driver to Diesel line vice-versa and it would not amount to transfer from one post to another post.

6. It is well settled that the Tribunal cannot sit in appeal over the decision of the Administration in passing orders of transfer. The jurisdiction of the Tribunal is very limited, it can exercise judicial review only in cases of a transfer order being mala fide or being in violation of any statutory rules. No such violation of statutory rule is brought to my notice.

As far as mala fides are concerned, nothing has been pressed before me except stating that the applicant had indulged in some Trade Union Activities, which ^{allegation} application has been denied by the respondents. Hence there is no sufficient material before the Tribunal to show that the order of transfer is mala fide.

7. After having heard the counsel for both sides, it is seen that no case is made out for

admitting the O.A. It is stated that the applicant has already made a representation expressing his difficulties regarding the order of transfer. In my view, the respondents should consider the representation of the applicant and pass a speaking order irrespective of the order passed in the present O.A.

8. In the result, the O.A. is rejected at the admission stage itself. However, this order will not come in the way of the respondents considering the appeal of the applicant dt. 5.5.1998 and pass appropriate orders according to law. No costs.


(R.G.VAIDYANATHA)
VICE-CHAIRMAN

B.