

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 584/90

Date of decision: 16.3.94

RAM CHANDRA

: Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents.

Mr. J.K. Kaushik

: Counsel for the applicant.

Mr. Manish Bhandari

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

The applicant was transferred from Idgah to Bayana vide Order dated 13.7.90 (Annexure A-2). However, D.P.O. Kota telegraphically stayed the transfer of the applicant and other five persons.


2. During the stay of the transfer, the applicant was promoted as Guard 'A' and was posted at Gangapur City. The applicant submitted the refusal in writing and submitted that he would like to continue on account of domestic reasons at Idgah. Subsequently, the respondents transferred again the applicant from Idgah to Bayana by recalling the stay order. The earlier order of transfer merged in the second posting/promotion order which was passed on a subsequent date. There are specific directions of the Board that in case an employee who refuses promotion for a year due to unavoidable domestic reasons, should not be transferred away for that year. This direction has been given only to save the employee from double punishment. The applicant has foregone his promotion on account of his domestic reasons and if he is again transferred within that year then it will be penal in character. He should not be promoted for one year on account of refusal and for that reason this benefit has been extended. Earlier, the order has been merged in the subsequent order of promotion and passing of the earlier order has not come into force at all.

In the light of the Railway Board's instructions, referred to in Annexure A-5 dated 17.2.65, the transfer of the applicant will ordinarily be bad. However, the respondents have come with a case that the posts were transferred from Idgah to Bayana and for this reason, the applicant was transferred to Bayana. He has invited my attention to Annexure R-2, the transfer order dated 13.7.90. The applicant has filed the rejoinder and in para 1, he has submitted the extract of the certificate issued on 10.1.91. In this certificate, it has mentioned by the Station Superintendent that Guards are working in the Headquarters Idgah. This is not sufficient as it does not indicate the correct position. The respondents have also not filed the reply to this submission.

3. I will consider the matter in depth and I direct that in case any person having the rank of Goods Guard 'B' or Goods Guard is working at Idgah or posted at Idgah, then the transfer order, at the relevant time, shall be ineffective for a period of one year and the applicant will be entitled for all the benefits of the circular. In case, no Guard is found working during the relevant period, in a normal way, then the applicant shall not be entitled for any benefit.

4. The respondents are directed to re-examine the matter and pass afresh order within one month from today. In case, applicant feels aggrieved even thereafter, he will be at liberty to file the fresh petition before this Tribunal.

5. The O.A. is disposed of accordingly, with no order as to costs.

  
( D.L. MEHTA )  
Vice-Chairman