

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH : AT HYDERABAD :

O.A.No.213/1990.

Date of Judgment : 8-5-1990

Shaik Ibrahim

...Applicant

Versus

1. Divisional Railway Manager (B.G.),  
South Central Railway, Secunderabad.
2. Senior Divisional Mechanical Engineer  
(C & W), (B.G.), South Central Railway,  
Secunderabad.
3. Mr.R.Khosla, Sr.D.M.E.(C & W),  
South Central Railway, (B.G.),  
Secunderabad.

.....Respondents

-----  
Counsel for the Applicant : Shri N.Raghavan

Counsel for the Respondents : Shri N.R.Devaraj, SC for  
Railways.

-----  
CORAM:

HONOURABLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

HONOURABLE SHRI D.SURYA RAO : MEMBER (JUDL)

(Judgment of the Bench dictated by  
Hon'ble Shri B.N.Jayasimha, Vice-Chairman)

-----  
The applicant herein ~~was~~ is working as <sup>a</sup> Carriage.  
<sup>He has</sup>

Fitter in the office of the Carriage & Wagon Supervisor  
(B.G.), South Central Railway, Secunderabad, ~~had~~ filed  
this application questioning the order No.S.O.O.No.128/  
C&W/1989 issued vide CP/535/MCM/10/SC dated 17-10-1989

fn's

contd...2.

39

.. 2 ..

transferring him from secunderabad to Ramagundam as Master Craftsman on promotion.

2. The applicant challenges the order of transfer on the ground that is is the policy of the Department that seniors should be continued in the Headquarters and juniors should be posted outside. Shri Khaja Mia Saheb, Sri D.Mallesh and Sri K.Siddiah Ellaiah, who are juniors to the applicant have on promotion be posted as Master Craftsman at Secunderabad. The applicant is an office bearer of South Central Railway Mazdoor Union and this should have been given weight before ordering his transfer. The applicant further contends that he has 12 children, which fact is available in his Personal File. This has not been taken into consideration while ordering his transfer out of secunderabad. Respondent No.3 had openly stated on his face that he would see the end of the applicant since the applicant is a Union Office Barer. Respondent No.3 is biased. Accordingly to the guidelines laid down in the Establishment Rules and paraNo.6.11 at page 14 of the IV Pay Commission Recommendations, employees on the verge of retirement should not be

b/w

contd.../-

uO

.. 3 ..

disturbed from Headquarters. The applicant is due to retire on 29-11-1991.

3. The respondents in their counter say that Md.Khaja is senior to the applicant. In the seniority list of 1981, Shri Khaja is at S.No.106, Siddaiah Ellaiah is at S.No.704. The applicant is at S.No.128, Sri Mallesh was junior to the applicant till 1988, when selections were made for the post of Master Craftsman in 1988, the applicant refused to appear for the selection. Accordingly he was promoted as Master Craftsman and ranked senior to the applicant in that cadre. The plea of the applicant that juniors are retained in the Headquarters and that he has been posted out without considering his seniority is without any basis. In regard to weight being given as he was the office bearer of the S.C.Railway Mazdoor Union, at the time of issuing the transfer orders, the applicant was not an office bearer of the Union i.e. on 17-10-1989. The allegation that respondent No.3 threatened the applicant is wholly untrue. Respondent No.3 entertained no bias. Applicant's representations to the General Manager was replied on 10-4-1990. The applicant is due to retire only by the end of 1991 and his claim that he should be retained at Headquarters has no merit. The contention that Shri Pochaiah was brought

65

contd.../-

(u)

back to the Headquarters within 21 days is not correct. For these reasons the respondents says that the applications should be dismissed.

4. We have heard Shri N.Raghavan, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents. We heard the counsels on both sides earlier and the matter was posted for further arguments by the learned counsel for the applicant. Shri Raghavan to-day files a memo stating that applicant's case for retention in the Headquarters is being considered by Department and hence the applicant wishes to withdraw the application. He therefore seeks that the withdrawal may be accepted and orders may be passed to that effect.

5. Shri Devaraj states that respondents in their counter have repelled all the contentions urged in the application. He also states that the respondents have given no assurance to the applicant to consider his case for retention in Headquarters. The statement made in the memo of withdrawal is therefore not correct. The applicant has made wild allegations against respondent No.3 without any basis and for that reason alone, the case of the applicant ~~deserves no sympathy~~ <sup>deserves no consideration</sup>. The applican

To:

1. The Divisional Railway Manager(B.G.) south central railway, Secunderabad.
2. The Senior Divisional Mechanical Engineer, (C&W) (B.G) south central railway, Secunderabad.
3. One copy to Mr.N.Raghavan, Advocate, 113, Jeera, Sec'bad.
4. One copy to Mr.N.R.Devaraj, SC for Railways,CAT,Hyderabad.
5. ~~One copy~~ One spare copy.

• • •  
kj.

(u2)

tion for withdrawal is therefore made as the applicant finds that he has no material to support his case.

6. We have considered these submissions. The respondents have rebutted all the contentions made by the applicant and the bias attributed towards Respondent No.3 has no basis. The applicant, however, has now filed the memo for withdrawal of the application. There is however no assurance, as stated in the memo of withdrawal, by the respondents to consider his case for retention. Accepting this position, learned counsel for the applicant states that the application may be allowed to be withdrawn. In the circumstances, we dismiss the application as withdrawn. There will be no order as to costs.

*BN Jayasimha*  
(B.N.JAYASIMHA)  
Vice-Chairman

*D. Surya Rao*  
(D.SURYA RAO)  
Member (J)

Dated : 8th May, 1990.  
Dictated in Open Court.

av1/

*Deputy Registrar*  
For Deputy Registrar (J)

803  
CHECKED BY

TYPED BY:

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:HYD.

HON'BLE MR.B.N.JAYASIMHA: V.C.

HON'BLE MR.D.SURYA RAO: MEMBER: (JUDL)

A N D

HON'BLE MR.J.NARASIMHA MURTHY (M) (J)

A N D

HON'BLE MR.R.BALASUBRAMANIAN: (M) (A)

DATED: 8-5-90

ORDER/JUDGMENT:

M.A./R.A./C.A./No. in

T.A.No. W.P.No.

O.A.No. 213/90

Admitted and Interim directions issued.

Allowed.

Dismissed for default.

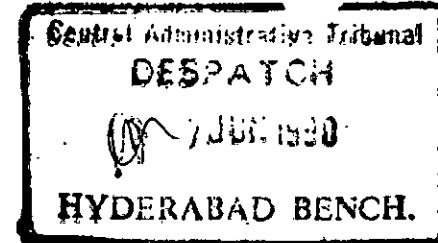
Dismissed ~~as withdrawn~~

Disposed of with direction.

M.A. ordered.

No order as to costs.

Sent to Xerox on:



218