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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1012/90.

Date of Judgement: 15-2-1991.

K.U.Reddy

....Applicant

vs.

1. The Secretary, Railway Board,
Ministry of Railways, Railway
Bhavan, New Delhi.
2. The General Manager, SC Railways,
Railway Nilayam, Secunderabad.
3. The Chief Engineer, SC Railways,
Railway Nilayam, Secunderabad.
4. The Chief Personnel Officer, SC Railways,
Railway Nilayam, Secunderabad.

....Respondents

Counsel for the Applicant : Shri P.Veera Reddy

Counsel for the Respondents : Shri N.V.Ramana, SC for Rlys

CORAM:

THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

THE HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (J)

(Judgement of the Division Bench delivered by
Hon'ble Shri J.N.Murthy, Member (J)).

This is an application filed to declare the action
of the Respondents in transferring the applicant to Southern
Railways through wireless message No.E(0) III-90 TR/25
dt.27-11-90 of the 1st respondent and the consequential
proceedings No.P/GAZ/675/Engg dt.29-11-90 in Office Order
No.425/90 as arbitrary, illegal unjustified improper and
unenforceable and to set aside the same.

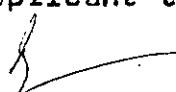


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The contents of the application is briefly as follows :-

The applicant ~~herein~~ is working as Dy. Chief Engineer. While he was working at the Divisional Office, Guntakal as Senior Divisional Engineer (Co-ordination), which is the equivalent post of Deputy Chief Engineer, the 2nd respondent through proceedings No. P/GAZ/675/Engg dt. 19-1-90 through Office order No. 16/90 transferred and posted the applicant as Senior Divisional Engineer (Constructions) of Carriage Repairs Shop, Tirupathi. Obeying the orders of the second respondent the applicant has gone to Tirupathi and joined there on duty on 29-1-90. While he hardly worked there for 20 days, the first respondent through message No. E(0) III-90 TR/25 dt. 14-2-90 transferred the applicant to Southern Railways and further ordered that he should be relieved immediately to report to Southern Railways. The applicant as he was suffering from Jaundice, he applied for sick leave and he was sanctioned the same. On 9-3-90 applicant submitted a representation to the first respondent narrating his difficulties to go to Southern Railways and as to how the transfer is made within 20 days from his earlier order. The 1st respondent considering the representation of the applicant through his proceedings dt. 28-3-90 cancelled the transfer order dt. 13-2-90. After receiving the cancellation ~~orders~~ of transfer of the applicant to Southern Railways, the second


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respondent through proceedings dt.10-4-90 in office order No.112/90 transferred the applicant and posted him as Dy. Chief Engineer (Bridges), Secunderabad. The applicant joined at Secunderabad and has been continuing there since he is visited with another transfer order on 29-11-90. The 2nd respondent through his proceedings dt.29-11-90 in Office Order No.425/90 ordered the transfer of the applicant to Southern Railways in pursuance of the Railway Board's wireless message No.E(0)/III-90 TR/25 dt.27-11-90. According to the applicant ~~the~~ transfer to Southern Railway is arbitrary, unjustified and unreasonable. The applicant is subjected to transfer as frequently as possible by the Respondents. Within a period of 10 months, he visited with five orders of transfer. The applicant has been obeying the orders of ~~his~~ superiors and joining at the places where ever he is posted hitherto, but the frequent transfers are made only in order to harass the applicant and to put him to severe inconveniences. He further submits that there are absolutely no reasons for the present transfer of the applicant to Southern Railways. The applicant states that there are no grounds for the respondents to transfer him to Southern Railway or fresh reason for transferring the applicant to Southern Railway.

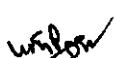
It is further submitted that there are about 90 Deputy Chief Engineers working in the South Central Railway. Among these 90 Dy.Chief Engineers no other

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Dy.Chief Engineer is subjected to such number of frequent transfers. Further it is submitted that generally there will not be any transfers from the cadre of Deputy Chief Engineers from one railway to another railway. Only in extraordinary cases where there is a want of vacancy in the particular railway and only in order to accommodate that particular incumbent a transfer may be made to the existing vacancy in another railway and only in extraordinary cases where the transfer is made at request. The applicant further states that there are certain Dy.Chief Engineers at South Central Railway who are willing to go to Southern Railways as theybelonged to that particular area. If at all the transfer of the Dy.Chief Engineer is necessary, the respondents ought to have transferred one among the such persons to Southern Railways retaining the applicant at South Central Railway, which is his native zone. Applicant further submits that he has only about 22 months of service for retirement and is due to retire on 30-9-92. The applicant being native of Andhra Pradesh and as he has only about 22 months of service, he is taking necessary steps to finally settled down in Andhra Pradesh. In similar circumstances the Railway Board in its letter No.E(NG)I-81-TR-90 dt.23-5-81 instructed all the General Managers of all Indian Railways that the repeated transfers of an officer was not correct and such frequent transfers of the railway servants



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should not be ordered and that the servants who are on the verge of their retirement with only one or two years of service left may be exempted from transfers if complaints against them are not serious. Further it is instructed that if at all a transfer is necessary, then the servant against whom there are complaints and with longest stay should be shifted first. Contrary to the Railway Board circular, he has been transferred frequently from one place to the another. The applicant also states that he is suffering from Diabetes and High Blood-fresher. He is continuously taking treatment from the last two years. The applicant's wife is also suffering from Diabetes. Further it is submitted that at this age, it is highly difficult for them to shift the family from one place to another with having hardly about 22 months service. The applicant submits that he is working to the satisfaction of his superior authorities and there was no scope for giving any complaint against the applicant from any corner. His outstanding work was recognised on several occasions. So in anyview the transfer is not justified. Hence he has filed this application.

Respondents have filed para-wise remarks with the following contentions :-

It is stated that the applicant ~~has an overall~~ reputation far from satisfactory and there is a vigilance investigation in a number of cases against the applicant and also on the strong recommendations of the Central Bureau of

Investigation that ~~this was against~~ this officer should be kept at a distant place than Secunderabad so as not ^{to} enable him win over the witnesses and from smooth conduct of enquiries by the investigating agencies. He has found to be not obeying the orders of the superiors/Administration and has been manipulating things to his benefit, keeping at bay the administrative interest, arising out of such investigations, it was decided to transfer him to Southern Railway. This action of the Administration was taken in large public interest as ~~it~~ was felt expedient to transfer the applicant. The order of transfer is neither actuated to ameliorate nor meant to punitive. The administration has a right ~~to~~ in circumstances such as have been revealed in this case, to take a policy decision in respect of any individual who happens to be a serving officer so that the entire gamut of activities on the basis of which investigations have been conducted be revealed, that if the officer continues to be on the post/at the same station, might be embarrassing for the officer as well as the Administration. It is in this context that an order of transfer made in these circumstances cannot ~~be~~ be punitive. So there are no grounds according to the respondents to entertain the petition filed by the applicant and there are no merits in the petition and the application is liable to be dismissed.

We have heard Shri P.Veera Reddy, learned counsel for the applicant and Shri NV Ramana, learned standing counsel

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for Railways. In the course of their arguments they cited some decision also. It is an admitted fact that the applicant was ~~transferred~~ subjected to very frequent transfers. The frequent transfers made by the authorities are according to the applicant only to harass him but not on any administrative ground or on any public interest. So far as transfers are concerned there are no strict legal grounds to question the transfer. It all depends on the relative merits of each ~~and~~ ~~in~~ individual case. Generally transfers can be made on administrative grounds, public interest or if there are any allegations against the employee, the respondents can transfer him. In the instant case the applicant was transferred from Guntakal to Tirupathi, Tirupathi to Madras and from Madras to Secunderabad to harass him only. But the respondents contention is that there ~~are~~ is a vigilance enquiry against him. That is why they transferred the applicant to Tirupathi and from there he was transferred to Madras so that he will be away from the South Central Railway and from there he was transferred again to Secunderabad and in Secunderabad also there are some allegations regarding issuing of passes when he was enjoying leave as per the records produced before the court and they ~~want~~ went to enquire into those matters. So they again transferred him to Southern Railway, which is out of South Central Railway. So they say that while an enquiry is going on, he may meddle with the records. So he was again transferred to Madras. When the Respondents produced the relevant records under which they have transferred the

To

1. The Secretary, Ministry of Railways, Railway Board, Rail Bhavan, New-Delhi.
2. The General Manager, S.C.Rlys, Railway Nilayam, Secunderabad.
3. The Chief Engineer, S.C.Railways, Railway Nilayam, Secunderabad.
4. The Chief Personnel Officer, S.C.Railways, Rail Nilayam, Secunderabad.
5. One Copy to Mr.P.Veera Reddy, Advocate, H.No.10-1-18/16, Shyamnagar, Hyderabad-4.
6. One Copy to Mr.N.V.Ramana, SC. for Railways, CAT., Hyd.
7. One Spare Copy.

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Today
20/10/2011

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applicant from place to place clearly ~~was~~ shown that a case was booked against the applicant by the Anti Frauds Squad. According to them he was travelling with duty pass issued to him while he was on leave by train No.6/11 on 24-2-90. On an earlier occasion also the applicant travelled by train No.756 on 19-2-1990 by taking emergency quota on the same metal pass. Applicants name appeared in the reservation chart of both the trains. In these circumstances the respondents contend that the transfers are reasonable, but not out of any bias.

The health ground he mentioned are not dangerous and ~~there~~ is the treatment is available for such complaints everywhere and the contentions he raised against the transfer are not convincible and there are no merits in the application. According ^{to} the application is dismissed. No order as to costs.

B.N.Jayashimha
(B.N.JAYASIMHA)
Vice-Chairman

MS
(J.NARASIMHA MURTHY)
Member (Judicial)

Dated: 15-2-1991

D.S.D
R/W Deputy Registrar

AVL/

B.N.Jayashimha

ASR

CHECKED BY

APPROVED BY

TYPED BY *NLW*

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE MR.D.SURYA RAO : M(J)

AND

THE HON'BLE MR.J.NARASIMHA MURTY : M(J)

AND

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

Dated: 15-2-1991.

ORDER / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A. NO.

W.P. NO.

O.A. NO. 1012/20

Admitted and Interim directions issued.

Allowed

Disposed of with direction

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected.

No order as to costs.

Central Administrative Tribunal
DESPATCH

22 Feb 1991

HYDERABAD BENCH