

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.981/91

DATE OF JUDGEMENT:

18th DEC., 1992

BETWEEN

Sri K.Satyanareyana
and

... Applicant

1. Union of India rep by the
Secretary, Ministry of Railways
New Delhi.

2. Divisional Personnel Officer,
S.E.Railway, Waltair
Visakapatnam

3. Sr.Divisional Commercial Superintendent
Waltair

4. Sri B.Ramana Rao, Goods Supervisor
S.E.Railway, Vizianagaram

.. Respondents

Counsel for the Applicant

: Mr K.S.Mallikarjuna Rao

Counsel for the Respondents

: Mr NR Devraj, Sr.CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.))

JUDGEMENT

(Delivered by Hon'ble Shri T.Chandrasekhara Reddy, Member(J))

This is an application filed under Section 19 of the Central Administrative Tribunals Act, to quash the transfer order dated 11.2.91 issued by the 2nd respondent transferring the applicant to Damanjodi siding.

2. The facts so far necessary to adjudicate this OA in brief, may be stated as follows:

3. The applicant at present, is working as Head Goods Clerk at Vizianagaram in South Eastern Railway. The applicant had also worked in various agency stations like Dantaram and Jagedipur without caring for his health. According to the applicant, the health of his wife ^{The} ^{had} been affected very seriously as the applicant had worked in

T - C. Mandir

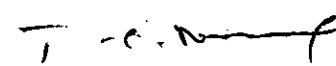
..2

28

..2..

Agency areas and also his wife had resided with him in the agency areas. On 13.6.89, the applicant was transferred from Vizianagaram to Naupada. The applicant put in a representation on 18.6.89 to cancel the said transfer order on the grounds that his daughter was studying in convent school at Vizianagaram and that, there is no convent school at Naupada. The said transfer order dated 13.6.89 was cancelled by the 2nd respondent vide his orders dated 27.7.89. But as per orders of the 2nd respondent, dated 17.12.90, the applicant was again transferred from Vizianagaram to Srikakulam Road. The applicant therefore put an representation dated 27.12.90, requesting the respondents to cancel the said transfer order and retain him at Vizianagaram itself on the grounds, that, he cannot work as Head Goods Clerk at Srikakulam Road because of his ailing health. While the said representation of the applicant dated 27.12.90 was pending with the respondents, as per orders dated 11.2.91 the applicant was transferred to Dhamanjodi siding which is in the agency area. As per orders of the 2nd respondent dated 17.12.90, one Sri B.Narayana Rao had been posted in the place of the applicant as Head Goods Clerk at Vizianagaram. According to the applicant, the transfer of the applicant by the 2nd respondent vide his orders dated 17.12.90, had been made to accommodate the said Sri B.Narayana Rao and hence the action of the respondents in transferring the applicant is malaifide and hence this OA is filed by the applicant to quash the order of the 2nd respondent dated 11.2.91 transferring the applicant to Dhamanjodi siding as indicated above.

Counter is filed by the respondents opposing this OA. 



We have heard Mr KS Mallikarjuna Rao, counsel Standing for the applicant and Mr NR Devraj, counsel for the respondents.

As could be seen, the applicant has been working as Head Goods Clerk at Vizianagaram w.e.f. 1.10.84 onwards. The applicant, in view of his post as Head Goods Clerk at Vizianagaram, ~~he~~ would be coming in touch with the public frequently in the discharge of his official duties. As per the orders of the Railways, those staff having public dealing, have to be subjected to periodical transfers so as to avoid continuous contact with the public. So, as the applicant had a standing of nearly 5 years from 1984 onwards, the respondents seem to have transferred him from Vizianagaram to Srikakulam Road. Vizianagaram and Srikakulam are adjacent Districts in the state of AP. So, it cannot be said that the said transfer of the applicant from Vizianagaram to Srikakulam Road as Head Goods Clerk is malafide in any way. No doubt in this case, the respondents have cancelled the transfer order of the applicant from Vizianagaram to Srikakulam Rd ~~and issued fresh orders transferring the applicant from Srikakulam to Dhamanjodi siding. Due to re-distribution of posts in the cadre of commercial clerks, the post of Head Goods Clerk at Srikakulam Rd was transferred to Dhamanjodi siding and so the applicant had been posted at Dhamanjodi siding in view of the circumstances of the case along with the post. Hence, it is rather very difficult to accept the fact that there are any malafides on the part of the respondents in effecting the transfer of the applicant, originally from Vizianagaram to Srikakulam due to administrative exigencies, and later to Dhamanjodi siding due to transfer of the said post from Srikakulam Rd to Dhamanjodi siding. It is also not acceptable, in view of the circumstances of the case, that the applicant had been transferred with a view to accommodate one Mr B. Narayana Rao at Vizianagaram. So, as no malafides can be attributed to the respondents in effecting the transfer of the applicant, it will not be proper to inter-~~

fere with the order of the transfer of the applicant.

The legal position with regard to transfers has been clearly and succinctly laid down by the Supreme Court. ^{like Supreme Court} It will be pertinent to refer to a decision reported in 1989(10) ATC 396 : 1989(2) SCC 602 : 1989 SCC (L&S) 393 Gujarat Electricity Board Vs Atma Ram. The Supreme Court had observed in the said decision that the transfer of a Government servant appointed to a particular cadre of transferable post from one place to another is an incident of service. No Government servant has a legal right for being posted to any particular place. Transfer from one place to another place is a condition of service and the employee has no choice in the matter. Transfer from one place to another is necessary in the public interest and efficiency in public administration. The following observations made by the Supreme Court are Pertinent:

"Whenever a public servant is transferred, he must comply with the order, but if there be any genuine difficulty in proceeding on transfer, it is open to him to make a representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not modified or stayed or cancelled, the concerned public servant must carry out the order of transfer. There is no dispute that the respondent was holding a transferable post and under the conditions of service applicable to him, he was liable to be transferred and posted at any place within the State of Gujarat. The respondent had no legal or statutory right to insist for being posted at one particular case."

So, in this case also, the applicant has not at all complied with the transfer order of the respondents transferring him to Srikakulam Rd or Dhamanjodi siding and has not taken charge of the post. The observations in the above cited judgement apply ~~in~~ all fours to the case on hand.

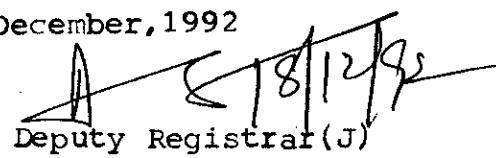
(23)

In view of the legal position as explained by the Supreme Court with regard to transfers and for the reasons already indicated, it is not open for this Tribunal ^{transfer} to interfere with the said order of the applicant. Hence, there are no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

(T.CHANDRASEKHARA REDDY)
Member(Judl.)

Dated:

18 December, 1992


Deputy Registrar (J)

To

1. The Secretary, Union of India,
Ministry of Railways, New Delhi.
2. The Divisional Personnel Officer,
S.E. Railway, Waltair, Visakhapatnam.
3. The Sr. Divisional Commercial Superintendent,
Waltair.
4. One copy to Mr. K. S. Mallikarjuna Rao, Advocate
Advocates Association, High Court of A.P. Hyd.
5. One copy to Mr. N. R. Devraj, SC for Rlys, CAT, Hyd.
6. One spare copy.

pvm,

*sent by fax
18/12/92*

(3)
TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CHECKED BY APPROVED BY
HYDERABAD BENCH

HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

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

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY:M(J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER(JUDL)

Dated: 18-12-1992

ORDER/JUDGMENT:

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

in

O.A. No. 981/91

T.A. No.

(W.P. No.)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

pvm.

