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

C.A.NO.1111/92.

DATE OF JUDGMENT: 28-07-95.

BETWEEN:

P. Venkateswarlu

.. Applicant.

AND

1. The Secretary,
Railway Board, Rail Bhavan,
New Delhi - 110 001.
2. General Manager,
SC Rly, Rail Nilayam,
Secunderabad-500 371.
3. Divisional Railway Manager,
SC Rly, Vijayawada-520 001.

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Ramana,
xx/Addl.CGSC.

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

[AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN]

JUDGEMENT

Heard both the learned counsels.

2. The applicant who was working as Diesel Instructor Driver/at Guntur, was transferred to Vijayawada as power controller by order dated 25-10-90 by the Divisional Personnel officer. The applicant made representation dated 4-11-90 to the DRM, Vijayawada against the said order of transfer. It is stated for the applicant that when there was no response to the said representation, he approached the then Hon'ble Minister of State for Railways on 1-4-1991 with the copy of the representation dated 4-11-1990 and the Hon'ble Minister was pleased to recommend for the continuation of the applicant at Guntur cancelling the transfer order and also for granting six months leave. Then the Railway Board issued order dated 6-5-91 advising the General Manager, SC Railway to implement the said order and the same was forwarded to the C.P.O. It is stated for the applicant that when the same was not implemented he again approached the then Hon'ble Minister for Railways through Hon'ble Member of Parliament and ultimately the order dated 5-9-91 was issued cancelling the order dated 25-10-90 transferring the applicant from Guntur to Vijayawada. Thereupon the applicant joined at Guntur. ~~Thereupon the applicant joined at Guntur. The order dated 15-11-91 was issued whereby the order dated 24-10-90 transferring the applicant from Guntur to Vijayawada was restored. The same is challenged in this OA praying for a consequential direction for his continuation at Guntur.~~

3. The main contentions for the applicant are:

The then Senior D.M.E. was ^{of} a forward caste and he had prejudice against the employees of backward, scheduled caste & Scheduled Tribes and the applicant is of backward class and because of the said prejudice and also due to anonymous complaints of the rival trade unions, the applicant was transferred from Guntur to Vijayawada and when the same was brought to the notice of then Hon'ble Minister of State for Railways, he was pleased to recommend for cancellation of the order of transfer and as the same was found to be unpalatable for the concerned officer, the same was not immediately implemented, and ~~after~~ necessary instructions were given only after the applicant was constrained to approach the then Hon'ble Minister for Railways. After implementation of the said order, within 40 days, the authorities lower down withdrew the cancellation order and again re-validated the original transfer order and it is arbitrary and illegal.

4. The Respondents produced letter ^(dated 8-11-91) of the then C.P.O which shows that the revalidation of the original transfer order was done at the instance of the Hon'ble Minister for Railways and the Railway Board. It also discloses that the ~~then~~ DME, Vijayawada ^{by the time of revalidation} is not of forward caste and the then C.P.O. also ^{appears} to be of backward class. Nothing is alleged against the Railway Board in directing the revalidation of the original order of transfer.

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5. When once the Railway Board is having the power to cancel the order of transfer issued by the lower authority, it follows that the Railway Board has power to review the same. Thus there is no illegality when the Railway Board ^{has} viewed its earlier order.

6. When the Sr. D.M.E. against whom the mala-
~~ides~~ ^{impeached} are made, is not ~~implemented~~ as a party to this OA, the plea of malafides against the said officer cannot be considered. The learned counsel for the applicant submitted that if at all any direction was given for revalidation of the original order of transfer, it might be at the instance of ^{Hon'ble} ~~some~~ Minister of State for Railways, ^{but not at the instance of} ~~other than~~ the Hon'ble Minister for Railways. If it were to be so, the applicant is free to bring it to the notice of the Hon'ble Minister for Railways. It is needless to say that ^{if} ~~the~~ applicant is still having any grievance in regard his transfer to Vijayawada, he can make a representation to the General Manager, SC Railway for ^{cancellation of} his re-transfer or for ^{if} his transfer to Vijayawada.

7. The other pleadings in the OA and the reply statement have no bearing for consideration of the relief claimed in this OA, and hence we are not adverting to the same and they ^{are} left open for consideration, ^{it} ~~as~~ and when they are ~~raised~~ ^{vide}. As the letter dated 8-11-91 suggests that the instruction for revalidation of the transfer dated 24-10-90 are oral, the question of sending for the written instruction in regard to the same from the Railway Board does not arise.

8. In the result, the OA is dismissed.
No costs.//



(R. RANGARAJAN)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

Dated the 28th July, 1995.

Open court dictation

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Deputy Registrar (J) CC

To

1. The Secretary, Railway Board,
Railbhavan, New Delhi-1.
2. The General Manager, S.C.Rly,
Railnilayam, Secunderabad-371.
3. The Divisional Railway Manager,
S.C.Rly, Vijayawada-1.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, AC for Rlys. CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

THPED BY

C.C. by 11/8/95
9/8/95

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN))

DATED 28/7 1995.

ORDER/JUDGMENT:

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

OA.No. ⁱⁿ 1111/92.

TA.No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No. order as to costs.

No Spare copy

