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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH
AT HYDERABAD.
O.A.No.822 of 1993.

Between

Smt. S.Setharamamma.

.. Applicant.

and

1. Sr.Divisional Personnel Officer,
South Central Railway, Vijayawada.

2. Sr.Divisional Commercial Superintendent,
South Central Railway, Vijayawada. .. Respondent.

COUNTER AFFIDAVIT FILED ON BEHALF OF ALL THE RESPONDENTS.

I, K.B.T.NAIK, S/o. K.Takrya Naik, aged about 42 years, Occupation:Government Service, do hereby affirm and state as follows:-

1. I am the Divisional Personnel Officer(Co-Ordination), South Central Railway,Vijayawada and as such I am fully acquainted with all facts of the case. I am filing this counter Affidavit on behalf of all the Respondents as I have been authorised to do so. The material averments in the O.A. are denied save those that are expressly ~~not~~ admitted herein. The applicant is put to strict proof of all such averments except those that are specifically admitted hereunder:

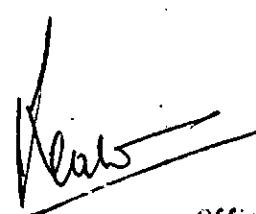
The Brief History of the Case is stated as under:-

Smt. S.Seetharamamma, the Applicant was orginally appointed as Safaiwala in Medical Department, and she was transferred to Commercial Department at ~~is~~ her request. The applicant was posted as Hamal with bottom seniority and she joined on 17.1.90 and working as Water woman since then.

The Plat-from Inspector/BZA under whose control she is working has issued a letter wherein he stated that she has been creating all sorts of indiscipline and as such she may be shifted from BZA to have peaceful and discipline atmosphere. Accordingly a letter was issued to SS/G/BZA to transfer her as Hamal/Parcel/BZA since Passenger Water Woman, Hamal, Luggage Porter, Waiting Room Attendant are

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Vijayawada


Assistant Personnel Officer G&O
S.O.Rly, VIJAYAWADA

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one cadre posts with one seniority. Smt. S. Seetharamayamma who was given a relief memo to report to Parcel Office/BZA by SS/G/BZA, refused to accept the same and reported sick unauthorisedly.

Aggrieved by the order, she has filed application before the Hon'ble Tribunal/HYB under OA No.953/92 and 514/93 to consider by posting as Waiting Room Attendant at Vijayawada. The same were dismissed by the Hon'ble Tribunal/HYB with some direction to consider her by posting in a light job. Secondly, she filed another OA No.822/93 before the Hon'ble Tribunal/HYB challenging the transfer orders given to her by posting to Vinukonda station as Passenger Water Woman. She got stay order and accordingly she has been retained at Vijayawada till the final disposal of the present OA No.822/93.

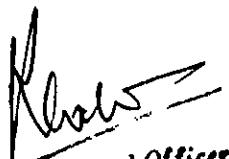
Sr. Divisional Commercial Manager/BZA is the Administrative Officer under whose control the applicant is working. He is the competent authority in regard to posting and transfer of Class IV Staff in Commercial Department. As such there is no bar to take action as and when it is required.

In reply to Para 6 it is submitted that the facts of the case are as under:-

The applicant was originally appointed as Safaiwala in the Medical Department and she was transferred to Commercial Department at her request. The applicant was posted as Hamal with bottom seniority. The applicant joined Commercial Department on 17-1-1990 and she was working as Water Woman since then.

2. In reply to Para vi(2), it is submitted that the applicant had undergone Family Planning Operating in 1981. It is also submitted that the incentives like Increments, Transfer,

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S. O. Aly, VIJAYAWADA


Divisional Personnel Officer, Commercial
S. O. Aly..
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Change of Department, Allotment of Quarter, etc. in preference shall applicable to those who underwent Family Planning operated on or after 9-1-1991 and it is not applicable to the Applicant. Further there is no such direction from Railway Board for grant of incentives like transfer, change of Department, allotment of Quarters as claimed. It is true that the Personnel Branch have registered the application for being posted as Waiting Room Attendant in the following order.

1. Smt.Jayamma
2. Smt.S.Seetharamamma
3. Smt.K.Ammajiamma

In this connection it is submitted that there is no rule that the posting of waiting room attendant should only be given as per application seniority of registration. The waiting room attendant is an important post. Honesty, courteousness and suitability are important factors for the posting of waiting room attendant. The Senior Divisional Commercial Manager, Vijayawada considered all the three registered persons and found suitable Ammaji Amma for waiting room attendant and issued posting order No.B/P.677/1/Cl. IV on 7-6-92.

3. In reply to para VI(3) it is submitted that (i) Hamal (ii) Luggage Porter (iii) Waiting room Attendant (iv) Retiring Room Attendant and (v) Water Woman belong to one seniority unit and they are inter-changeable posts. It is also submitted that the applicant was transferred from Medical Department to Commercial Department as per Office Order No.Comml/15/90 dated 12-1-90 and ^{Posted} ~~passed~~ her as Hamal with bottom seniority in the Commercial Department. As per the posting orders the applicant was originally posted as Hamal. The applicant was transferred to her original post bringing to same seniority unit and as such it is not contrary to rules and regulations.

In reply to the allegations made in Para VI(3) it is submitted that the Sr.Divisional Commercial Manager is the

competent authority in regard to the posting and transfer of Class-IV Staff in Commercial Department. The Sr.Divisional Commercial Manager is the Administrative Officer under whose control the applicant is working. The Sr.Divisional Commercial Manager issued the orders and the Personnel Branch has communicated it.

Further it is submitted that the Plat-form Inspector Vijayawada has reported to Sr.DCM/Vijayawada and recommended her transfer. Relaying upon the report of Platform Inspector Sr.DCM has issued direction in his letter No.B/C.DCS/WW/92 of 17.9.92 to SS/G/BZA to transfer the applicant to the original post of Hamal at Parcel Office.

In reply to the allegations made in paras 4 & 5 it is submitted that by honouring the directions of the Hon'ble Tribunal the applicant was allowed to continue as Passenger Water Woman and she is working as Passenger Water Woman since 17.1.1990 i.e. right from the date she joined in Commercial Department. It is preposterous for the applicant to claim that serving water to Passengers is a strenuous job in comparison with Hamal when she never worked as Hamal in spite of the fact that her original posting was as Hamal.

5. In reply to para 6 it is submitted that the applicant had once filed an application before the Hon'ble Tribunal with regard to posting her as waiting room attendant (O.A.No.953/92). The Hon'ble Tribunal dismissed the application and directed the respondent to consider and to assign such duties only to the applicant which she could perform without her health being effected in any way due to the discharge of her official duties. By Honouring the directions of the Honourable Tribunal, she is allowed to continue to work as Water woman which is very light job instead of posting back as Hamal. It is

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submitted the duty of the applicant only to serve to passengers on platform. The applicant is working as passenger water woman since last three years. Hence the question of having strenuous duties does not arise. Further it is submitted that necessary counter is filed in the O.A. No.514/93 by reiterating the same points.

6. In reply to the allegations made in Para 7 and 8 it is submitted that the Sr.Divisional Commercial Manager, Vijayawada is the competent authority in regard to the posting and transfer of Class IV staff in Commercial Department as stated ~~supra~~. Accordingly the applicant was given transfer orders by posting her to Vinukonda station against an existing vacancy on Administrative account with all transfer benefits. However, in compliance with the interim orders of the Hon'ble Tribunal dated 19-7-1993, the respondent has kept the transfer orders in abeyance.

7. In reply to para 9 & 10 it is submitted that there is no such rule that a Class IV staff shall not be transferred. The General rule is that a Government servant is normally transferrable within the units of seniority. In the instant case there is a ~~divisional~~ seniority for waiting room attendants water woman and Hamal of Commercial Department to which the applicant belongs. It is submitted that Vingkonda is within Vijayawada Division. The Sr.Divisional Commercial Manager is the competent authority in regard to posting and transfer of Class IV staff in Commercial Department. He is the administrative officer in whose control the applicant is employed. As such there is no bar for him to transfer as and when it is required on administrative account.

8. It is submitted that the applicant was given transfer orders as a Passenger water woman to Vinukonda, a small station where they can have very light work. As such it is submitted that the applicant deliberately suppressed the material facts and the applicant approached the Hon'ble Tribunal. It is further submitted that no such represen-

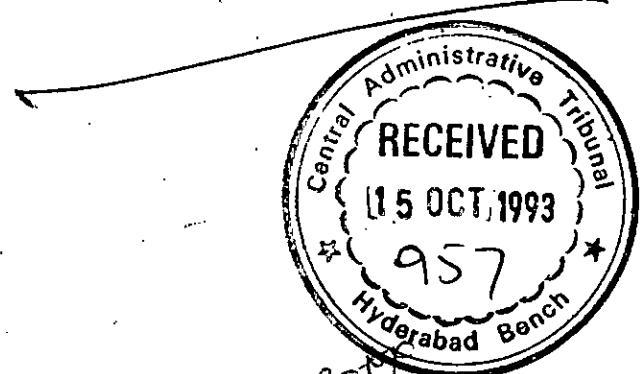
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*Divisional Personnel Officer (C.S.O.)
S. Rly.
Vijayawada
Divisional Personnel Officer (C.S.O.)
S.O.R.Y. VIJAYAWADA*

In the C.A.
Hyd. Bench

on 8/2/93

Counter Affd.



Received copy
15/10/93
A. D. Rao, Legal Advisor

Emiley 15/10/93

filed by —
N. R. Devay
Sd/-