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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A.No.886/93.

Dt. of Order:16-8-93.

Syed Chingeesha

....Applicant

Vs.

1. Divisional Railway Manager,
SC Railway, Vijayawada.
2. Senior Divisional Personnel Officer,
S.C.Railway, Vijayawada.
3. Senior Divisional Operations Manager,
S.C.Railway, Vijayawada.

....Respondents

Counsel for the Applicant : Shri J.M.Naidu

Counsel for the Respondents : Shri Francis Paul

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PRESENT.

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divv. Bench passed by Hon'ble
Shri A.B.Gorthi, Member (A)).

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The grievance of the applicant is against his transfer along with post from Vijayawada to Bitra Gunta, as contained in the office memo dt.26-7-93 issued by the Divisional Railway Manager's Office, Vijayawada.

2. The applicant joined Southern Railway in 1970, and was promoted as a Trains Clerk in 1976. He was transferred to South Central Railway and was posted to Gudur.

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Thereafter he joined as a Head Trains Clerk in 1984 at Vijayawada. In 1992 he became due for promotion to the post of Chief Trains Clerk in the scale of Rs.1600--2660. He appeared for the written examination and also viva-voc~~ae~~^{ae}. In the result that was published on 27-2-93 his name did not figure~~d~~ where as his juniors including Mr. P.Bangaru Shetty were shown as found Suitable to the post of Chief Trains Clerk. Aggrieved by his non selection for promotion to the post of Chief Trains Clerk he filed O.A.495/93. Because of this action on the part of the applicant, the respondents decided to take revenge and have therefore transferred him along with his post to Bitragunta, With a view to accommodate Mr.P.Bangaru Shetty they transferred the post of Chief Trains Clerk from Bitragunta to Vijayawada by the same order.

3. The contention of the learned counsel for the applicant is firstly that the transfer order ^{was} ~~is~~ issued ~~merely~~ for no other reason than the fact that the applicant had approached this Tribunal in O.A.495/93 challenging his non selection for the post of Chief Trains Clerk. Secondly he was picked-up for ~~that~~ transfer to Bitragunta although there are several other^s Head Trains Clerks, both senior^s and junior^s ~~to him~~ retained at Vijayawada.

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4. Mr. Paul, learned counsel for the Respondents has clarified that the transfer order of the applicant was issued in a routine manner and it was not on account of the fact that the applicant had approached this Tribunal. He further contends that a Work Study Team examined and reviewed the strength of Trains Clerks at various stations and has given certain recommendations. Consequently, the number of posts of Trains Clerks had to be reduced from 26 to 24. As the work load at Vijayawada is heavier than at Bitragunta, it was decided that one post of Chief Trains Clerk should be transferred to Vijayawada and one individual along with the post of Head Trains Clerk shifted to Bitragunta. It was on account of this, the applicant together with his post has been transferred to Bitragunta. As regards some other, both senior and junior to the applicant, who are still being retained at Vijayawada, learned counsel for the Respondents states that it is the prerogative of the concerned authority to select a particular person for transfer. In the instant case, it is stated that the applicant was not functioning satisfactorily and that the responsibility at Vijayawada is heavier compared to Bitragunta and hence it was decided to transfer the applicant to Bitragunta along with his post.

5. It is well settled that an employee who is holding a transferable post cannot challenge the transfer except on the ground that the same is vitiated on account of mala-

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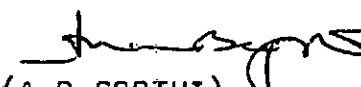
(20)

fide on the part of the respondents or that the Respondents acted in violation of any statutory rule or regulation. In the instant case it cannot be said that the transfer is in violation of any extant rules or instructions. As regards some seniors and juniors being retained in Vijayawada, instructions, if any, in this regard for the posting of the senior most person can only be as a guideline and cannot be said to be mandatory. On the question of mala fides, a mere allegation of mala fide will not substantiate the case in the absence of any cogent material on record. Merely because the applicant had approached the Tribunal challenging his non selection for the post of Chief Trains Clerk, it cannot be said that the Respondents acted out of revenge. We cannot lay down any law to the effect that a person approaching this Tribunal should not be transferred from his present post.

6. It is seen that the applicant had approached the Tribunal without exhausting the remedy of representing to the proper authority. It will be open to him to do so now, notwithstanding the fact that we are dismissing this O.A. It is for the Respondents to consider if they should retain him at Vijayawada till the finalisation of his representation.

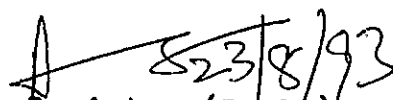
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7. The Original Application is dismissed with the above observations at the admission stage itself after hearing learned counsel for both the parties. No order as to costs.


(T.CHANDRASEKHAR REDDY) Member (J)

(A.B.GORTHY) Member (A)

Dated: 16th August, 1993.
Dictated in Open Court.

avl/


Dy. Registrar (Judl.)

Copy to:-

1. Divisional Railway Manager, South Central Railway, Vijayawada.
2. Senior Divisional Personnel Officer, South Central Railway, Vijayawada.
3. Senior Divisional Operations Manager, South Central Railway, Vijayawada.
4. One copy to Sri. J.M.Naidu, advocate, CAT, Hyd.
5. One copy to Sri. Francis Paul, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

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O.A. 886/93

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M (A)

Dated: 16/8/1993

ORDER/JUDGMENT:

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

in.

O.A.No.

886/93.

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

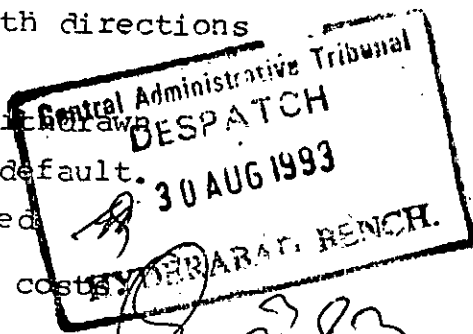
Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs



pvm