

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 388/93

Date of Order: 7.3.1994

BETWEEN :

Dr. K. Jalaiah .. Applicant.

A N D

1. Govt. of India, rep. by its Secretary, Ministry of Railways, New Delhi.
2. The Chairman, Railway Board, Rail Bhavan, New Delhi.
3. The General Manager, S.C.Railway, Secunderabad.
4. The Chief Personnel Officer, South Central Railway, Secunderabad.
5. Dr. M. L. Imtiaz, Divisional Medical Officer, Sub-Divisional Railway Hospital, Purna.
6. Dr. T. V. Karunakara Rao, Medical Superintendent, c/o Sub-Divisional Hospital

.. Respondents.

Counsel for the Applicant

.. Mr. G. Bikshapathy

Counsel for the Respondents

.. Mr. N. R. Devraj

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY : MEMBER (JUD L.)

[Signature]

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This is an application filed under Section 19 of the Administrative Tribunals Act to declare the transfer order of the applicant dt. 12.4.1993 from Purna to Donakonda is illegal and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this O.A. in brief are as follows:-

2. The applicant was working as Medical Superintendent at Purna. The third respondent (General Manager, S.C.Rly.) transferred the applicant from Purna to Donakonda by proceedings dated 24.8.92. The said order was challenged by the applicant in O.A.779/92 that the same was disposed of by 9.9.92 by observing that the second respondent (Chairman Railway Board) may consider his application in the matter. (Applicant) the transfer of the applicant from Purna to Donakonda was ordered in the administrative interest. So, O.A.301/93 was again filed by the applicant to declare that the proceedings dated 15.3.93 of the second respondent transferring the applicant from Purna to Donakonda is illegal, arbitrary and the said transfer had been done with malafides. By an order dated 8.4.83 O.A.301/93 was decided by a Single Member Bench consisting Hon'ble Justice V.Neeladri Rao, Vice Chairman, the Single Member dated 8.4.93 in O.A.301/93:-

" After going through various material papers that are filed alongwith the OA, I feel that it cannot be stated that Respondent-2 was not justified in deciding

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that the transfer of the applicant from Puna to Donakonda was in Administrative interest.

The learned counsel for the applicant submitted that if the relief as claimed in this application is not granted, he may be permitted to make a representation to the concerned authority for consideration of his transfer to any Sub-Divisional or Divisional Hospital or any Health Unit or Poly Clinic where there will be more than 2 Drs as and when vacancies arise. I feel that in these circumstances this Tribunal fondly hopes that the General Manager, South Central Railway, will give due consideration for request on such representation keeping in view the Administrative interest.

It is stated that no one is yet posted as Medical Superintendent of the Sub-Divisional Hospital at Puna in the place of the applicant. So, in the circumstances, it is just and proper to order that the applicant should be allowed to work in the Sub-Divisional Hospital at Puna till he is relieved by Medical Superintendent who may be posted in this place."

3. After the orders dated 8.4.93 the impugned orders had been issued posting Dr.T.V.Karunakaran (6th Respondent herein) at Puna while maintaining the transfer of the applicant to Donakonda. The applicant had been relieved as Medical Superintendent at Puna on 15.4.93 and as subsequently assumed charge at Donakonda. The applicant ~~yet~~ present is working at Donakonda. As already pointed out aggrieved by the orders dt. 12.4.93 posting 6th respondent at Puna as Medical Superintendent in the place of the applicant, the present OA is filed by the relief as already indicated above.

4. Counter is filed by the respondents opposing this O.A.

5. We have heard Mr.K.K.Chakravarthy, learned counsel for the applicant and Mr.N.R.Devraj, learned standing counsel for the respondents.

6. One of the contentions advanced on behalf of the applicant is that the transfer order dated 12.4.93 is made with malafides. In the earlier OA also i.e. in O.A.301/93 malafides had been attributed to the concerned respondents for transferring the applicant from Purna to Donakonda. The question of malafide had been dealt with in O.A.301/93. In para 5 of the judgement which we have already extracted it is clearly held that the transfer of the applicant from Purna to Donakonda was in administrative interest and that there were no malafides on the part of the respondents in transferring the applicant from Purna to Donakonda. So, in view of the earlier finding in O.A.301/93 it is not open for the applicant to raise any malafides on the part of the respondents in transferring the applicant from Purna to Donakonda and in posting the 6th respondent in the place of the applicant at Purna. As could be seen from the para 7 of the Judgement the Bench in this OA.301/93 had only directed the 6th respondent to work in the Sub-Divisional Office, Purna till he is relieved by Medical Superintendent (who may be a surgeon). As already pointed out the judgement in O.A.301/93 is dated 8.4.93. The impugned proceedings posting the 6th respondent to Purna is dated 12.4.93. The 6th respondent had taken charge on 15.4.93 relieving the applicant who had subsequently joined at Donakonda. The judgement dated 8.4.93 had upheld the validity

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of the transfer of the applicant from Purna to Donakonda, it is not open for the applicant to once again contend that the proceedings dated 12.4.93 are not valid. So, in view of the judgement dated 8.4.93 passed in O.A.301/93 we do not have any difficulty to come to the conclusion that not only the transfer order of the applicant from Purna to Donakonda is valid, but also the posting of the 6th respondent in the place of the applicant at Purna is also valid. For these reasons the OA filed by the applicant is liable to be dismissed.

7. It is stated that the applicant is posted at Donakonda which is a single bed hospital and that formerly the applicant was working at Purna where there were 4 junior Doctors and so it is contended that the posting of the applicant at Donakonda on transfer from Purna is not commensurate with the status of the applicant. The very same contention had also been raised in O.A.301/93. Bearing the said contention in mind, this Tribunal in its order dt.8.4.93 in para 6 to which a reference had already been made had observed that "this Tribunal fondly hopes that the General Manager, South Central Railway, will give due consideration for request on such representation keeping in view the administrative interest". So, if a representation had already been made for giving the applicant a proper place and in the event such a representation has not been made and if made, it will be open to the respondents to consider the said representation and pass appropriate orders for giving a proper place to the applicant which the respondents may consider fit and proper. It is not for this Tribunal to give any directions to the respondents to give a particular place to the applicant on transfer. It is not open for the Tribunal to take the role of the _____ >

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respondents in effecting transfers. But as already pointed out the respondents may consider the representation and pass appropriate orders with regard to the place of posting the applicant on transfer taking into consideration his seniority, experience and suitability at the place where the applicant has to work.

The parties shall bear their own costs.

(T.CHANDRASEKHARA REDDY)/
Member (Judl.)

Dated - 7th March 1994

(Dictated in Open Court)

Amulya
Deputy Registrar (J) CC

To sd

1. The Secretary, Ministry of Railways,
Govt. of India, New Delhi.
2. The Chairman, Railway Board, Rail Bhavan, New Delhi.
3. The General Manager, S.C.Rly, Secunderabad.
4. The Chief Personnel Officer, S.C.Rly, Secunderabad.
5. One copy to Mr.G.Bikshapathy, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
8. One spare copy.

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

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

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

THE HON'BLE MR.K.RANGARAJAN : MEMBER
(ADMN)

Dated: 7-3-1994.

~~ORDER~~ JUDGMENT:

M.A. / D. No. NO

in
O.A.No. 388/93

T.A.No. (W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

