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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD-BENCH

O.A.NO.848/95

Wednesday this the 20th day of November, 1996

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN

HON'BLE MR.JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN

HON'BLE MR. P.T.THIRUVENGADAM, ADMINISTRATIVE MEMBER

Ch.Roosevelt,
S/o Yesudass, Schedule Caste,
aged about 39 years, Commercial Clerk,
(R.G.C.C.), South Central Railway,
Gudur Station,
Nellore District.

.. Applicant

(By Advocate Mr.P.Satyaraja Babu)

Vs.

1. The General Manager,
South Central Railway,
Secunderabad,
2. The Divisional Railway Manager,
S.C.Railway, Vijayawada, Krishna District,
3. The Addl.Divisional Railway Manager,
S.C.Railway, Vijayawada, Krishna District,
4. The Sr.Divisional Personnel Officer,
O/o Divisional Railway Manager,
S.C.Railway, Vijayawada,
Krishna District,
5. The Divisional Commercial Manager,
S.C.Railway, Vijayawada,
Krishna District,
6. The Divisional Safety Officer,
S.C.Railway, Vijayawada,
Krishna District.

.. Respondents

(By Advocate Mr. V.Rajeswara Rao
for Mr.N.V.Ramana, Addl.CGSC)

The application having been heard on 20.11.1996 the
Tribunal on the same day delivered the following:

O R - D - E - R

CHETTUR SANKARAN NAIR (J), CHAIRMAN

The question referred to us is whether the
decision of the Jodhpur Bench of the Tribunal in B.S.Verma

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v. Union of India ; (1994) 26 ATC 313, that Railway Board's letter No.78-E(SCT)/15/25 dated 16.7.78 is enforceable is correct. The Jodhpur Bench held:-

"it is not only prohibitory in nature but it also issues a mandate to subordinate officers not to transfer any Scheduled Caste/Scheduled Tribe employees".

2. Applicant is a member of Scheduled Caste and he has been transferred from Gudur to Krishna Canal. Taking shelter under the circular aforementioned, as understood by Jodhpur Bench, he claims relief, and then correctness of the decision was doubted.

3. Even assuming that the circular prohibits transfer, the relevant questions are whether the circular is enforceable through process of Court, and whether it confers an enforceable legal right on the applicant. Answers obviously are in the negative. In G.J.Fe State of Mysore ; AIR 1967 SC 1753, Supreme Court held that administrative instructions cannot be enforced and that no writ lies for disobedience of administrative instructions. For this short circular is not enforceable and if it is not, the applicant has no remedy before the Court. It is held that in matters of transfer, an employee is not entitled to the general category or to any special rights. In Union of India and

v. Union of India ; (1994) 26 ATC 313, that Railway Board's letter No.78-E(SCT)/15/25 dated 16.7.78 is enforceable is correct. The Jodhpur Bench held:-

"it is not only prohibitory in nature but it also issues a mandate to subordinate officers not to transfer any Scheduled Caste/Scheduled Tribe

2. Applicant is a member of Scheduled Caste and he transferred from Gudur to Krishna Canal. Taking shelter under the circular aforesaid, understood by Jodhpur Bench, he claims relief, and then correctness of the decision was doubted.

3. Even assuming that the circular prohibits for the relevant questions are whether the circular is enforceable through process and whether it confers an enforceable legal right on the applicant. The answers are in the negative. In G.J.Fernandez v. State of Mysore ; AIR 1967 SC 1755, Supreme Court has held that administrative instructions cannot be enforced in a court of law. No writ lies for disobedience of these administrative instructions. For this reason, if the circular is not enforceable and if it is not enforceable, applicant has no remedy before the court. It is also settled law that in matters of transfer, an employee, whether he belongs to the general category or to a reserved category, enjoys the same rights. In Union of India v. S.L.Abbas ;

1994 SCC (L&S) 230, Supreme Court held:-

"The guidelines, however, does not confer upon Government employee a legally enforceable right".

In these areas, to afford a protection to a member of a particular community not in the nature of the protection envisioned in Article 16 of the Constitution, will be against the guarantee of equality of matters of employment under the State. We hold that a member of a Caste/Tribe enjoys no special privilege in the matter of transfer that the circular/letter mentioned hereinbefore is not enforceable in law and that the decision of the Jodhpur Bench in B.S.V. v. Union of India and others; 1994(26) ATC 213 as affirmed by the Division Bench of the Tribunal in K. S. Chandran v. Director General, All India Institute of Medical Sciences and others; (1994) 27 ATC 650 do not lay down the correct law. On the questions referred, we dismiss the application. Parties will bear their costs.

Dated 15th day of November, 1996

P.T. THIRUVENGADAM	<i>M. G. Chinnai</i>	<i>Kan Kanau</i>
MEMBER (ADMN.)	VICE CHAIRMAN	CHETTUR SANKARAN NAIK (P)

vsn

Deputy

CHETTUR SANKARAN NAIK (P)

O.A.848/95.

To

1. The General Manager SC Rly,
Secunderabad.
2. The Divisional Railway Manager, SC Rly,
Vijayawada, Krishna Dist.
3. The Additional Divisional Railway Manager,
~~EX~~ SC Rlys, Vijayawada, Krishna Dist.
4. The Sr.Divisional Personnel Officer,
C/o Divisional Railway Manager, SC Rly,
Vijayawada, Krishna Dist. 10.
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5. The Divisional Commercial Manager, SC Rly,
Vijayawada, Krishna Dist.
6. The Divisional Safety Officer,
SC Rly, Vijayawada, Krishna Dist.
7. One copy to Mr.P.Satyaraja Babu, Advocate, CAT.Hyd.
8. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
9. One copy to Library, CAT.Hyd.
10. Copy to All Benches and Reporters as per standard list of
CAT.Hyd.
11. On spare copy.

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3/12/96

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CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE CHITRA SANKARAN
THE HON'BLE MR. JUSTICE M.G. CHAUDHARY
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M
P.T. Tirumangala

Dated: 20-11-1996

ORDER / JUDGMENT

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

in

O.A.No. 848/95

T.A.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

