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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

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 period the circular is not enforceable and if it is, the applicant has no remedy before the Court. It is to be noted that in matters of transfer, an application can be made to the general category or to the concerned department for the protection of his rights. In Union of India v. State of Bihar the Supreme Court held that the circular is not enforceable in the Court of law.

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 already understood by Jodhpur Bench, he claims relief, and then correctness of the decision was doubted.

3. Even assuming that the circular prohibits the relevant questions are whether the circular is enforceable through process and whether it confers an enforceable legal right on the applicant. These are in the negative. In G.J.Fernandez v. State of Mysore ; AIR 1967 SC 1/55, administrative instructions cannot be enforced in a court of law for disobedience of these administrative instructions. For this reason the circular is not enforceable and if it is not enforceable, applicant has no remedy before a court. It is also settled law that in matters of transfer, an officer whether he belongs to the general category or to a scheduled category, enjoys no rights. In Union of India v. Others v. S.L.Abbas ;

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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 envisaged in Article 16 of the Constitution, will be against the guarantee of equality of employment under the State. We hold that a member of a caste/tribe enjoys no special privilege in the matter of transact that the circular/letter mentioned hereinbefore is not enforceable in law and that the decision of the Jodhpur Bench in B.S. V. V. India and others; 1994(26) ATC 213 as also that of the Tribunal in K. Chandran v. Director General, All India Railways and others; (1994) 27 ATC 650 do not lay down the correct law. In view of our inability to the questions referred, we dismiss the application. Parties will suitably bear the costs.

Dated the 20th day of November, 1996.

P.T. THIRUVENGADAM  
MEMBER (ADMN.)

M.G. CHETTU  
VICE CHAIRMAN

CHETTUR SANKARAN

Han Kavau

vsn

Deputy

CHETTUR SANKARAN  
VICE CHAIRMAN  
HAN KAVAU  
K. CHANDRAN  
M.G. CHETTU  
P.T. THIRUVENGADAM  
V.S. NAIR (S)

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 List.
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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TYPED BY  
COMPARED BY

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COURT  
CHECKED  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

Hon'ble MR. JUSTICE Chellu Sankara  
THE HON'BLE MR. JUSTICE M.G. CHAUDHARY  
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M.

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

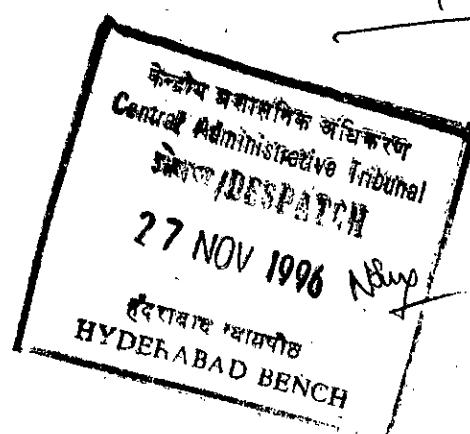
Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

No Spare Copy



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