

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1432/95.

Dt. of Decision : 20-08-96.

N. Narasinga Rao

.. Applicant.

Vs

1. The Divl. Railway Manager,
SE Rly, Visakhapatnam.
2. The Sr. Divl. Commercial Manager,
SE Rly, Visakhapatnam.
3. The Sr. Divl. Mech. Engineer (C&W),
SE Rly, Visakhapatnam.
4. @ B.S. Prasad

.. Respondents

Counsel for the Applicant : Mr. P. Krishna Reddy

Counsel for the Respondents : Mr. C.V. Malla Reddy, SC for Rlys.
for R-1 to R-3

Mr. P.B. Vijaya Kumar for R-8.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

19

-2-

JUDGEMENT

4Oral Order Per Hon'ble Shri R. Rangarajan, Member (Admn.)

Heard Mr.P.Krishna Reddy, learned counsel for the applicant, Mr.C.V. Malla Reddy, learned counsel for the official respondents and Mr. P.B.Vijaya Kumar, learned counsel for R-4.

2. The applicant in this OA, while working as a Commercial Marker under R-2, ~~he~~ submitted a mutual transfer request to go as BTM in the C&W department in the place of R-4. It is stated that the mutual transfer was agreed and the transfer was ordered by letter No.WPV/C&W/467/KH and SKs/Part.I dated 21-7-95.However, the applicant submitted a representation dated 31-7-95 appealing for cancellation of his mutual transfer. The learned counsel for the applicant produced the original copy of his request for cancellation of mutual transfer. In the official copy the reference and the office order for mutual transfer is included by hand writing in ink, whereas the copy produced by the applicant's counsel this reference does not find a place. The applicant thereby submits that he had submitted his appeal for cancellation even before he came to know of the issue of the office order transferring him as BTM, under C&W department on mutual transfer request.

3. This OA is filed praying for a direction to the respondents No.1 to 3 to retain ~~him~~ him as Commercial Marker under R-2 in the unit of Visakhapatnam Steel Plant Siding (VSPS) without transferring him to the office of the R-3, Visakhapatnam as BTM.

4. It is now stated that R-4 came on transfer but he had been returned back by the Sr.Supervisor Viz., Chief Goods Superintendent, Visakhapatnam Steel Plant Siding to his original unit on the plea that the applicant had submitted ^{an} appeal for cancelling his order and he is waiting for reply. The learned counsel for R-4 submits that the applicant is aware of the transfer order even before submitting his representation for cancelling

D

mutual transfer.

5. The learned standing counsel submits that the applicant is aware of the mutual transfer order issued on 21-7-95 at the time of submission of his appeal for withdrawing the mutual transfer by his representation dated 31-7-95. Hence, he cannot go back on his earlier request and has to carry out the transfer order. Further the learned standing counsel submits that under instruction of the applicant only, the reference etc. has been indicated in the official copy in ink.

6.. It is not very clear from the above submissions whether the applicant is aware of his posting order earlier to his submission of appeal withdrawing the mutual transfer. But from the circumstances of the case it is possible that the applicant may be aware of the position even before he submitted his application for withdrawal. But this cannot be conclusively proved. However, the other mutual transferee from C&W Unit had already come to the Visakhapatnam siding Unit for joining. He cannot be asked to go back and continue in his old unit indefinitely. Under the circumstances an equitable solution has to be found to solve the issue. The only equitable solution I can think of is to bring the applicant also back to his original siding unit at the earliest opportunity after he joins the new unit in C&W Department. Hence, the respondents have to be given a direction to bring the applicant back to Visakhapatnam siding unit in the next arising vacancy of Marker. The applicant now must join the new unit for a short period and come back to his original unit thereafter when the first vacancy of Marker arises in that unit. The joining of the applicant to Visakhapatnam unit in the C&W Department should not cause much problem to him as that unit is also located in the Visakhapatnam nearer to the place where the applicant is now working as Marker. It may be possible that the applicant may be having a railway house ~~in~~ near the siding. Hence a direction may also have to be given to permit him to retain that railway quarter at the normal rent, till such

21

-4-

time he is brought back to the original parent unit.

7. In the facts and circumstances of the case, the following direction is given:-

The applicant should join in the new unit as BTM in Visakhapatnam. He should be brought back as a Marker under the Chief Goods Superintendent, Visakhapatnam Steel Plant Siding in the next immediate vacancy which arises there. Till such time he joins back in his old unit in Visakhapatnam Steel Plant Siding as Marker, the applicant, if he is residing in the railway quarter and desires to continue to reside in that railway quarter, should be allowed to continue to reside in that railway quarter levying from him only the normal rent which he is paying earlier to his transfer.

8. The OA is ordered accordingly. No costs.



(R. Rangarajan)
Member (Admn.)

Dated : The 20th August 1996.
(Dictated in Open Court)

spr

Approved
28/8/96
D-R-(5)

..5..

O.A.No.1432/95

Copy to:

1. The Divisional Railway Manager,
South Eastern Railway,
Visakhapatnam.
2. The Senior Divisional Commercial Manager,
South Eastern Railway,
Visakhapatnam.
3. The Senior Divisional Mechanical Engineer, (C&W),
South Eastern Railway, Visakhapatnam.
4. One copy to Mr.P.Krishna Reddy, Advocate,
CAT, Hyderabad.
5. One copy to Mr.C.V.Malla Reddy, SC for Rlys.,
CAT, Hyderabad.
6. One copy to Mr.P.B.Vijaya Kumar, Advocate,
CAT, Hyderabad.
7. One copy to Library, CAT, Hyderabad.
8. One duplicate copy.

YLKR

2/9/96

Typed By
Compared by

Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 20/8/96

ORDER JUDGEMENT
R.A./C.P./M.A. NO.

in

O.A. NO. 143285

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
~~ORDERED/REJECTED~~
NO ORDER AS TO COSTS.

YLKR

II COURT

C. Jee
what about the
draft in A 2

No Spare Copy

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal भारत / DESPATCH - 4 SEP 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH
--