

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
HYDERABAD

D.A. NO.122/96

Between:

Date of Order: 25.3.96.

M.Kumara Swamy

...Applicant.

1. The Divisional Railway Manager, (Works),
South Central Railway,
Secunderabad.
2. Senior Divisional Engineer, (Co-ordination),
South Central Railway,
Secunderabad.

...Respondents.

Counsel for the applicant : Mr.K.Sudhakar Reddy

Counsel for the Respondents : Mr.V.Bhimanna, Addl.CGSC.

CORAM:

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

contd...

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O.A. 122/96.

Dt. of Decision : 25-03-96.

ORDER

I As per Hon'ble Shri R. Rangarajan, Member (Admn.) I

The applicant in this OA, while working as Senior Gangman under PWI, Secunderabad was transferred to PWI, Lingampalli on ~~A~~ mutual transfer with one Shri E.Jagadeeshwar in terms of the impugned order No.CW/315/C1.IV.Transfers, dated 21-08-95. The above order is assailed in this OA.

2. The main contention of the applicant is that his application for mutual transfer was not forwarded by his controlling officer viz., PWI, Secunderabad and he had also with-drawn his request for mutual transfer by letter dated 13-10-1995(Annexure-III). His controlling supervisor while forwarding his request for cancellation of the impugned mutual transfer has noted that "the applicant had not given any application for mutual transfer in this office. His request for cancellation of mutual transfer may be considered". The applicant submits that even if he has applied for mutual transfer it has to be forwarded through his Supervisor as per rule. But from the endorsement on the Annexure-III letter dated 13-10-95, it is clear that the concerned supervisor has not forwarded the mutual transfer application form. The alleged signature of the controlling supervisor in the mutual transfer application form earlier submitted by the applicant is not the signature of PWI, Secunderabad and hence mutual transfer dated 21-08-95 issued is defective and had to be set aside.

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3. In view of the above submission an order dated 07-02-1996 was issued to submit an affidavit whether the signature on the mutual transfer application of the applicant is that of the controlling supervisor of the applicant.

4. To-day it was submitted by the learned standing counsel that the controlling supervisor has not signed on the mutual transfer application. Hence, the mutual transfer application is defective and the mutual transfer order dated 21-08-95 is also to be treated as defective. In the above circumstances of transfer order on the basis of the defective mutual transfer request has to be set aside in so far as the applicant is concerned.

5. Shri E.Jagadeeshwar who was posted in place of the applicant is not impleaded. Hence no order need be given in respect of that employee. The setting aside of the impugned order is only in respect of the applicant.

6. As the applicant was relieved on mutual transfer on the basis of the impugned order at Annexure-I on the basis of the defective mutual transfer request, the period from the date of his relief to join at Lingampally till the date he joined back at his original unit in pursuance of this order has to be treated as on duty. The interim order dated 7-2-96 will apply only in case the applicant had to be relieved to join Lingampally on the basis of the impugned order. If the impugned order itself is set aside there is no case to consider the period from the date of relief of the applicant till the date of his joining in the original unit in pursuance of this order, in any of the manner except treating that period as on duty.

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7. In the result, the following direction is given:-

The impugned order No.CW/315/C1.IV.Transfers, dated 21-08-95 is set aside in so far as the applicant is concerned. The applicant should be posted back in the unit in which he served earlier ~~in~~ his relief on the basis of the impugned order. His original seniority in his earlier unit stands unaffected. If the applicant reports for duty along with the copy of this order by 04-04-1996, he should be taken back on duty under PWI/Secunderabad and the period from the date of relief till 04-04-96 should be treated as duty. If he fails to join on 04-04-96 the period beyond 04-04-96 will be treated as leave due to him.

5. The OA is ordered accordingly at the admission stage itself. No costs.

Me E

(R. Rangarajan)
Member(Admn.)

Dated : The 25th March 1996.
(Dictated in Open Court)

Anubhuti
Dy. Registrar (S)

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Copy to:

1. The Divisional Railway Manager(Works),
South Central Railway,
Secunderabad.
2. Senior Divisional Engineer (Co-ordination),
South Central Railway,
Secunderabad.
3. One copy to Mr.K.Sudhakar Reddy, Advocate, CAT, Hyderabad.
4. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One spare copy.

YLRK

04/22/96
07/4/96
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

HON'BLE SHRI A.B.GORTHI : MEMBER(A)

HON'BLE SHRI R. Rangarajan: M(A)

DATED: 25.3.96

ORDER/JUDGMENT

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

IN

O.A.NO. 122/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED REJECTED at the admission stage

NO ORDER AS TO COSTS

* * *

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