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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.152/96.

Dt. of Decision : 10-09-98.

T.Jeevarathnam

..Applicant.

Vs

1. The Union of India, rep. by its General Manager, SC Rly, Rail Nilayam, Sec'bad.
2. The Chief Operations Manager, SC Rly, Rail Nilayam, Sec'bad.
3. The Sr.Divl. Personnel Officer, SC Rly, Hubli Division, Hubli.
4. The Sr.Divl. Operations Manager, SC Rly, Hubli Division, Hubli.
5. The Divl. Rly. Manager, Hubli Division, Hubli.

..Respondents.

Counsel for the applicant : Mr.S.Ramakrishna Rao

Counsel for the respondents : Mr.J.R.Gopala Rao, SC for Rlys.

CORAM:-

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

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ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

Heard Mr. S. Ramakrishna Rao, learned counsel for the applicant and Mr. J. R. Gopala Rao, learned counsel for the respondents.

2. The applicant in this OA while working as OS Gr-II in the Miraj station of Hubli Division was promoted by office order No. H/P. 535/III/13/Vol.6 dated 16/17-02-95 (Annexure-II) and was posted as OS Gr-I at Hubli under Sr. Divl. Operations Manager, Hubli. The applicant was informed by the letter No. H/P. 535/III/13/Vol.6 dated 20-03-95 to report at the transferred location within a specified period. The applicant did not carry out his transfer. He had submitted a representation dated 28-02-95 (Annexure-III) addressed to R-4 for retaining him at Miraj on promotion due to his childrens' education and his superannuation being very near. He also submitted that there are about 400 staff in operating branch at Miraj. Hence transferring the post of OS Gr-I to Miraj is justified. He was informed by the letter No. H/P. 535/III/13/Vol.6 dated 28-4-95 (Annexure-IV) that as he had neither carried out the promotional transfer nor refused the promotion in writing, it was decided that the applicant ^{was} deemed to have been refused his promotion w.e.f., 19-04-95. Thereafter the applicant submitted representations dated 22-5-95 and 2-8-95 (Annexure-V & VI). These representations were replied by letter No. H/P. 535/III/13/Vol.7 dated 2-8-96 (Annexure-X). R-2 addressed R-3 to examine the feasibility of operating the OS Gr-I ^{part} at Miraj by his letter No. P(T) 535/Optg./Misc. dated 30-08-96 (Annexure-XII). That letter was replied by the Division by letter No. H/P. 535/III/13/Vol.7 dated 7-10-96 (Annexure R-VII to the reply) stating that applicant's request cannot be acceded to. A memorandum was also issued No. H/P. 535/III/13/Vol.6 dated 26-4-9 (Annexure R-IV to the reply) stating that the applicant is not eligible for promotion as OS Gr-I for a period of one year from 19-4-9 and hence he loses his seniority to all the employees who will be promoted as OS Gr-I within that period.

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3. This OA is filed to set aside the impugned order No.H/P. 535/III/13/Vol.7 dated 7-10-96 whereby his request for retention at Miraj as OS Gr-I was rejected as the pretext that he had deemed to have refused the promotion and for a consequential direction to the respondents to promote the applicant to the post of OS Gr-I duly retaining him under SS/Miraj w.e.f., 17-2-95 the date on which his initial promotion order was issued with all consequential benefits.

4. A reply has been filed in this OA. In the reply it is clearly stated that the applicant had not carried out his transfer. He cannot be retained at Miraj. In case he fails to carry out his ^{transfer} promotion transfer the promotion order will be cancelled. Once again R-2 requested R-3 to consider the feasibility of retaining the applicant at Miraj as OS Gr-I, that was not considered possible. Applicant was also informed so by various correspondence. Hence, the applicant cannot pray for any relief in this OA.

5. The applicant no doubt may be having some personal problems to carry out his transfer from Miraj to Hubli as OS Gr-I. He ~~had~~ submitted his representation for retaining him at Miraj by transferring the post of OS Gr-I from Hubli on some justification. But that justification was found inadequate to transfer the post of OS Gr-I from Hubli to Miraj. Hence, he was informed that he should carry out his transfer or otherwise it will be presumed that he refused the transfer. Inspite of that the applicant went on insisting for his retention at Miraj as OS Gr-I which resulted in issuing the order of his unsuitability for promotion as OS Gr-I for a period of one year from 19-04-95.

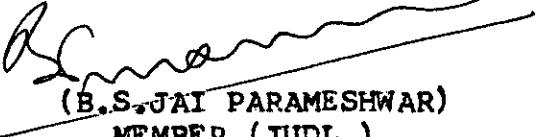
6. No employee can demand for posting at a particular place of his choice. He may request so. But that request has to be accepted by the competent authority. The applicant herein had requested for his retention at Miraj as OS Gr-I. But the respondents did not find it feasible to retain him at Miraj as there were no posts of OS Gr-I at Miraj. The respondents' organisation had also examined the feasibility of transferring one post of OS Gr-I from Hubli to Miraj.



But that was also found to be impracticable on the basis of the work load involved etc. Hence, the applicant cannot pray for cancelling the impugned order by which his request was refused. Further when an employee is transferred on promotion he cannot demand his posting at a particular place. Normally, he should carry out his transfer and explore ways and means to get a post transferred to Miraj or to create the post at Miraj thereby he can be accommodated at the place of his choice. The applicant did not take that course of action by joining at Hubli and then asking for his transfer in the same grade to Miraj.

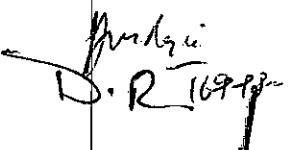
7. In view of what is stated above, we find that the refusal of the applicant to carry out his transfer resulted in loosing his promotion. We do not find any irregularity when the respondents refused his request for retaining him at Miraj as OS Gr-I and issued the impugned order dated 7-10-96.

8. In view of what is stated above, we find no merits in this OA and hence the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

10.9.98


(R. RANGARAJAN)
MEMBER (ADMN.)


D.R. (6913)

Dated : The 10th Sept. 1998.
(Dictated in the Open Court)

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