

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

C.A.534/99

Dt. of Decision : 08-04-99.

K.R.Sridharan

.. Applicant.

Vs

1. The Union of India rep. by its
General Manager, SE Rly,
Garden Reach, Calcutta.
2. The Chief Engineer, SE Rly,
Garden Reach, Calcutta.
3. The Chief Personnel Officer,
SE Rly, Garden Reach, Calcutta.
4. The Sr.Divl.Engineer(Co-ordination),
SE Rly, Waltair Division,
Visakhapatnem.

5. Sri K.Ramachandran

.. Respondents.

Counsel for the applicant : Mr.Siva

Counsel for the respondents : Mr.N.R.Devaraj, Sr.CGS^C.

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.Siva, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents No.1 to 4.

2. The applicant in this CA while working as AEN, Rayagada vide office Order No.391/98 dt. 3-1-98 (A-1) was transferred to Visakhapatnam as AEN/TM/VSKP which was lying vacant. The applicant submitted a representation dated 9-11-98 (Annexure-2) against the transfer. On that basis it is stated that the applicant was transferred as AEN/Bridge/GRC and it was also stated in the order No.476/98 dated 29-12-98 (Annexure-4) to retain him till March, 1999 at Rayagada as AEN.

3. When the matter stood thus the learned counsel for the applicant submits that he was not issued any order transferring him ~~to~~ ^{to} Laxmipur in Koraput district and he was asked to join telephonically ^{by} ~~to~~ Laxmipur as AEN and posting as R-5 ~~where~~ ⁱⁿ Rayagada.

4. This CA is filed to set aside the proceedings No.133/99 dated 31-3-99 of R-3 whereby the applicant was reported to have been posted to Laxmipur a copy of which was not served on him, but served on R-5, by holding the same as arbitrary, illegal and unjust and for a consequential direction to the respondents to permit the applicant to continue in the same place of posting till he retires on attaining the age of superannuation.

5. The main contention of the applicant against his transfer to Laxmipur as follows:-

1) The applicant should have retired normally in August, 1998 had the retirement age been continued as 58 years.

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In view of the raising of the retirement age from 58 to 60 years the applicant had some more spell for working as AEN in South Eastern Railway. He is ^{at} the fag end of ^{his} ~~the~~ service and hence transferring him at this stage to Laxmipur is unwarranted and he should be continued at Rayagada. For this he relies on the Railway Board's letter to state that an employee at the fag end of the service should not be transferred and should be allowed to retire from the place in which he was working at the fag end of his careers.

2) The applicant submits that his wife is a heart patient and she is undergoing treatment in the Rayagada hospital and he finds that it is necessary for him to continue the treatment at Rayagada itself where there are Doctors knowing her illness. If he is transferred out side Rayagada the case has to be considered afresh which may affect the life of his wife.

3) There are vacancies at Srikakulam and Laxmipur. Instead of transferring R-5 to Rayagada he may be posted at Srikakulam or Laxmipur thereby retaining the applicant at Rayagada.

6. The applicant though alleges malafide against R-2 such a malafide cannot be noted at this juncture and R-2 is not a party in this OA.

7. The learned counsel for the applicant submits that if the applicant is permitted to file a representation as suggested by the Bench he may be allowed to continue at Rayagada instead of going on leave and R-5 may be asked to go on leave as the applicant is ^{at} the fag end of his service and going on leave at this juncture may prejudice his case for getting leave salary at the time of retirement.

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8. The learned counsel for the respondents submits that the applicant is transferred only ^{to} a place which is 72 Kilometres away from the present place of posting and R-5 has been relieved and reported at Rayagada. The way in which the respondents' counsel submitted his case appears that Laxmipur is a very enjoyable place and the applicant should not find any problem. ^{less} said about Laxmipur it is better.

9. Considering the above points we are of the opinion that the case needs sympathetic consideration. As R-2 had already issued order posting him at Laxmipur, ^{we} we feel that it will be preferable for the General Manager viz., R-1 herein to consider his case sympathetically and pass order especially in view of the fact that his wife is undergoing treatment at Rayagada and also he ^{is} at the ^{after} ^{analysis} ~~on~~ the ~~base~~ of this case should be issued within a period of one month from the date of receipt of a copy of this judgement. As R-5 had already been relieved it will not be possible for us to retain him at Visakhapatnam.

^{he} ~~He~~ is relieved and reported for duty at Rayagada he should be allowed to take charge at Rayagada. But the transfer of R-5 to Rayagada should be treated as temporary transfer. The applicant should be granted leave for a month if he applies for the same.

10. In the result, the following directions are given:-

1) The R-1 should consider the case of the applicant sympathetically keeping in view of the observations made by us as above and decide this case within a period of one month from the date of receipt of a copy of this order.

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2) If R-5 had already been relieved he should be allowed to join at Rayagada but that transfer should be treated as temporary transfer till the case is disposed of by the General Manager.


3) The applicant if he submits a leave application for a period of one month the same should be granted to him by the competent authority.

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

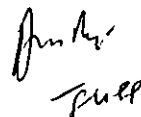
(Registry should send a copy of this OA along with the judgement to R-1)


(H.E. JAI PAPAMESHWAR)
MEMBER (JUDL.)

874199


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 8th April, 1999.
(Dictated in the Open Court)


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COPY TO:-

1. HDMJ
2. HHRP M(A)
3. HBSJP M(J)
4. B.R.(A)
5. SPARE

CC - 1
15/4/99
1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD:

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

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

THE HON'BLE MR. B.S. JAI PARAMESWAR :
MEMBER (J)

DATED: 8/4/99

ORDER / JUDGEMENT

MA / R. A. / C. P. No.

IN

C.A. No.

534/99

ADMITTED AND INTERIM DIRECTIONS,
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

DISPOSED OF WITH DIRECTION

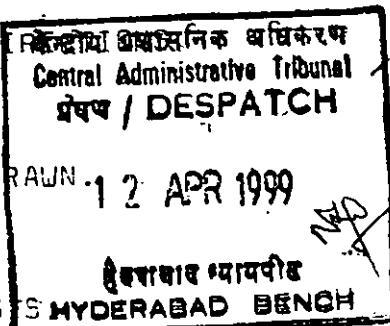
DISMISSED.

DISMISSED AS WITHDRAWN. 12 APR 1999

ORDERED/REJECTED.

NO ORDER AS TO COSTS HYDERABAD BENCH

SRR



a/w OA copy
for R-1

8 copies