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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.8/95

Dt. of order: 9.1.1995

Girdhari

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.S.C.Sethi

: Counsel for applicant.

CORAM:

Hon'ble Mr.O.P.Sharma, Member(Adm.).

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Girdhari has prayed that the transfer order Anrx.A1 dated 29.12.1994 may be declared as illegal, mala-fide and the respondents may be directed to cancel it because it is neither in the interest of administration nor in the exigencies of service.

2. The facts of the case as stated in the application are that the applicant is working as a Gangman in Unit No.68 in Shri Mahaveerji Section of the Kota Division of the Western Railway. A post of Trollyman under FWI Gr.II fell vacant on account of the retirement of the incumbent of that post. On the recommendations of the said FWI, the applicant was transferred vide order dated 2.11.94 from Gang Unit No.69 as Trollyman under FWI Gr.II, Shri Mahaveerji in the same scale of pay, as the posts of Gangman and Trollyman are both Group-D posts. The applicant accordingly joined duty as Trollyman on 21.11.94. The applicant was also allowed to occupy the Railway-quarter which had been lying vacant since the retirement of the incumbent of that post. The applicant's work as Trollyman has been satisfactory and he had qualified the medical examination in category A-3. However, abruptly the applicant was transferred from the post of Trollyman under FWI Gr.II to Gang Unit No.69 in the same scale of pay, vide order dated 29.12.1994. The applicant is aggrieved by the said order of transfer. Accordingly to him, the transfer is neither in the interest of administration nor in the exigencies of service but was ordered under the pressure of some out side agencies who were

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exercising pressure on respondent No.3, AEN, Western Railway, Gangapur City. Further, the applicant is a member of the Scheduled Tribe and if he is forced to join Gang Unit No.69, he will <sup>be</sup> compelled to vacate the residential accommodation allotted to him at Shri Mahaveerji and will also create difficulties in the education of his children. Further, according to the applicant, he had personally requested the respondents Nos.3 & 4 namely AEN, W.Rly, Gangapur City and FNI Shri Mahaveerji, Kota Division to cancel the transfer order Annex.A1 but they expressed their helplessness in this regard.

3. The learned counsel for the applicant has been heard. It is undisputed that the posts of Gangman and Trollyman are both Group-D posts and are both in the same scale of pay. It is not disputed that a Gangman can be transferred as a Trollyman and vice versa. The Hon'ble Supreme Court have laid down in a number of cases that an order of transfer can be interfered with only if it is mala fide or contrary to statutory rules. No statutory rules have been violated in ordering this transfer ~~order~~. As regards the allegation of mala fide, the applicant's case is that the transfer was ordered under some outside pressure but the allegation is <sup>and</sup> vague, <sub>not</sub> substantiated with any details. The person who is alleged to have acted mala fide has not been named as a respondent by name. No doubt an order of transfer would cause some personal difficulties to the person transferred, but it is for the Administration to consider the circumstances of each case while ordering transfer. This Tribunal cannot be expected to sit in the chair of administrative authorities to decide whether in a particular official should be transferred from one place or one post to another place or post, where such transfer is permissible under the rules. There is no merit in this application and it is dismissed at the stage of admission.

(O.P. Sharma)  
Member (Adm.).