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C. A. T. Bench, JAIPUR

Date of Order	Orders
<p>A-3-1996</p> <p>Vakalatnama filed on 12-3-96 my 15/3</p>	<p>Mr. Sanjay Maheshwari, Counsel for Applicant Mr. Manish Chandra, Counsel for Respondents</p> <p>Heard on has been disposed of by a separate order, pronounced in the open Court</p> <p><i>[Signature]</i> (Rattan Barash) MCJ</p>

(COMMISSIONER)
JAIPUR

91/96

Central Administrative Tribunal
Jaipur Bench, JAIPUR
Certified that no further action is
required. The Case is
Filed for Record.

[Signature]
Deputy Section Officer
Disputes (Jaipur)

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(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH:
J A I P U R .

OA No.99/1996

Date of order: 14.3.1996

Baboo S/o Sh. Anwar

: Applicant

Versus

Union of India and others

: Respondents.

Mr. Sanjay Maheshwari, counsel for the applicant
Mr. Manish Bhandari, counsel for the respondents

CORAM:

HON'BLE SHRI PATTAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

PER HON'BLE SHRI PATTAN PRAKASH, MEMBER (J):

The applicant Shri Baboo approached this Tribunal under Section 19 of the Administrative Tribunals' Act, 1985 to seek the following reliefs:-

i) to quash and set-aside the impugned order dated 3.2.1996 (Annexure A-7) issued by the Divisional Railway Manager (E), Western Railway, Jaipur, respondent No.2 whereby he has been transferred again to Kota Division;

ii) to direct the respondents by appropriate order to give the applicant pay scale of Rs. 775-1025 (RP).

2. Facts relevant for the disposal of this application are that the applicant is a Class IV employee and is presently working in the Office of Presenting Officer, Railway Claims Tribunal, Western Railway, Jaipur. He was also posted at the Kota Division as Class IV employee in the pay scale of Rs.775-1025(RP). On an application being moved by him to the respondent no.2 for his transfer on humanitarian ground to Jaipur,

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he was transferred to Jaipur vide order dated 1.7.95 (Annexure A-2).

3. The grievance of the applicant is that he being a low paid employee and has joined at Jaipur in the month of July 1995, the order as at Annexure A-7 is highly arbitrary and in gross violation of the principles of natural justice; more so when after transferring to Jaipur Division his pay scale has been reduced from 775-1025 to Rs. 750-940. On a prayer being made for interim relief, vide order dated 16.2.1996, the operation of the order dated 3.2.1996 (Annex.A-7) was stayed which is continuing till today. The applicant is, therefore, seeking the aforesaid reliefs.

4. The respondents have opposed this application by filing a written reply to which the applicant has not filed any rejoinder. The stand of the respondents has been that it was on his own request that the applicant was transferred from Kota division to Jaipur division and in the order of his transfer it was specifically mentioned that the applicant would retain his lien at Kota division. It has further been averred that although the applicant was earlier transferred to Jaipur Division to be posted in the office of the Railway Claims Tribunal but there being no vacancy at that particular time he was accommodated in the office of the Presenting Officer of the Railway Claims Tribunal, Jaipur. It has also been averred that there being now no vacant post and

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there being other surplus employees in the Jaipur Division the applicant has been transferred back to Kota Division vide Annexure A-7 where he is having his lien. It has, therefore, been pleaded that the application is without any substance and on the basis of accepted principles of transfer of a civil Government Servant; should be rejected.

5. I have heard the learned counsel for the applicant as also the learned counsel for the respondents and have carefully gone through the record in great detail.

6. It has been vehemently argued by the learned counsel for the applicant that since the applicant is a low paid employee and he has joined at Jaipur on a reduced pay scale, if he is insisted for going back to Kota Division, he will not only suffer great inconvenience but would also be a harsh action on part of the respondents. It has also been contended by the learned counsel that in the impugned order dated 3-12-1996 (Annex A-7) no reasons have been disclosed and hence this order is liable to be quashed.

7. On the contrary, the argument of the learned counsel for the respondents has been that since the applicant has been retaining his lien at Kota, he is being sent back to Kota Division and as soon as he joins over there his old pay scale would be restored and the apprehension disclosed by the applicant in his OA about losing his earlier

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pay scale is unfounded.

8. I have given anxious thought to the arguments of the learned counsels. ^{from 2} A perusal of the orders at Annexure A-4 dated 4.7.1995 read with another order dated 6.7.1995 (Annx.A-3) and letter dated 5.8.95 (Annx.A-5) alongwith the impugned order dated 3-1/3-1996 (Annexure A-7) it is made out that at present there is no post in the Jaipur Division of a Class IV employee. It was at his own request that the applicant has been brought to Jaipur to be posted in the Railway Claims Tribunal but there too he could not be accommodated and his services were ultimately placed under the Presenting Officer of Railway Claims Tribunal. In the impugned order Annexure A-7 although there is no details but it has been mentioned that since the applicant has been posted at Jaipur as a temporary measure and he retains his lien at Kota as is disclosed in Annexure A-3, he is being sent back to Kota Division and as such the applicant cannot insist that he should be retained at Jaipur Division itself.

9. It is settled law that unless an order of transfer appears to have been issued malafidely or in violation of any statutory provision, the Tribunal should not interfere in it. In the present case, the applicant has his lien in Kota Division and on his own request he was brought to Jaipur but finding that there was no vacant post of Class IV employee in the Jaipur Division and there are other surplus

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employees he has been sent back to Kota Division. The action of the respondents vide Annexure A-7 therefore cannot be faulted. However, during the arguments it has come out that the applicant has his children who are studying in various stages of education. Accordingly, the applicant should be allowed to stay for a specific period so that the examinations of his children can come to an end and he can move back to Kota Division.

10. Accordingly, in view of what has been said and discussed above, the OA is disposed of as under:-

- i) The prayer of the applicant to quash and set-aside the impugned order dated 3.2.1996 (Annx.A-7) is dis-allowed and it is directed that the order dated 3.2.1996 (Annx.A-7) passed by D.R.M.(E) Western Railway, Jaipur would come into operation from 31.5.1996 and not w.e.f. 3.2.1996;
- ii) The respondents are directed to restore to the applicant the pay scale of Rs.775-1025 (RP) which ^{he} was drawing while posted at Kota Division before being brought to Jaipur Division.

11. No order as to costs. Interim order granted vide order dated 16.2.96 stands vacated accordingly.


(RATTAN PRAKASH)
MEMBER (J)