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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
J A I P U R .
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OA NO.344/1996

Date of order: 26.7.96

Mangu Singh

: Applicant

Versus

Union of India and others

: Respondents

Mr.Man Singh, counsel for the applicant

Mr.U.D.Sharma, counsel for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAN FRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunals Act, 1985 Shri Mangu Singh has prayed that the orders dated 15.10.1995 and 28.5.1996 (Annexures A-1 & A-2) respectively transferring the applicant may be quashed and the applicant may be allowed to continue in his present place of posting i.e. Jaipur Unit, Jaipur as Waiter in the same pay scale which he was drawing so far. His alternative prayer is that he may be adjusted on any of the posts of Coach Attendant, C/C Attendant, Holiday Room Peon, Running Room Waiter etc., which carry identical scale of pay namely Rs.775-1025.

2. The applicant had also prayed for grant of interim relief to the effect that the operation of the orders referred to above may be stayed. Accordingly interim directions were issued staying the operation

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of the aforesaid orders by the Tribunal on 21.5.1996. The interim direction was modified on 5.7.1995 to provide that the operation of the stay order would be confined to the applicant only. The modified interim direction continues till date.

3. The facts of the case as stated by the applicant are that the applicant has been serving as a Waiter in the Western Railway Catering Unit at Jaipur. By order dated 15.10.1995 (Annex.A-1) respondent No.2, the General Manager, Western Railway, Bombay issued transfer order of the applicant for transfer to Bombay. In pursuance of the said order respondent No.3 i.e. Divisional Railway Manager, Jaipur passed order dated 23.5.1996 (Annexure A-2) transferring him to Bombay Central Unit. No-body has been posted in the applicant's place. Six persons stated to be juniors to the applicant have been retained at Jaipur. Therefore, the transfer orders are illegal and have been passed just in order to accommodate the persons who are junior to the applicant.

4. The respondents in the reply have stated that posts of Waiters at Jaipur were rendered surplus, and barring two senior most Waiters the rest of them have been transferred outside Jaipur Unit. The applicant had himself opted for transfer to Bombay as per the option given by him vide Annexure R-4 dated 19.7.1995. It is in pursuance of the option given by the applicant that he has been transferred to Bombay. The respondents have of-course also taken a preliminary objection regarding the wrong description of the designation and address etc., of the respondent and also non-joinder of necessary parties.

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5. We have heard the learned counsel for the parties and have perused the record. The QA is being disposed of at the stage of admission with the consent of the parties.

6. The preliminary objections taken by the respondents are of a purely technical nature and we are not inclined to attach much weight to these. The averment of the applicant that persons junior to him have been retained at Jaipur has been denied by the respondents in their reply. The applicant has been transferred to Bombay because the post against which the applicant was to be retained has been rendered surplus. It was on account of the applicant's exercise of option for transfer to Bombay that he was transferred to Bombay. In these circumstances, we are not inclined to interfere with the order of transfer passed by respondents No.2 & 3.

7. However, the learned counsel for the applicant stated that some more Canteens are going to be opened at Jaipur either at Divisional Level or at the Zonal level, as stated in the rejoinder filed by the applicant. If and when any new Catering Units are opened at Jaipur, the applicant's name can also be considered by the respondents alongwith the names of other similarly situated persons for transfer back

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to the Jaipur Catering Unit as per the prescribed rules and procedures.

8. The O.A. stands disposed of accordingly.



(Ratan Prakash)
Member (J)



(O.P. Sharma)
Member (A)