

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.249/98

Date of order: 21.1.1999

Gopal Ram Gaur, S/o Shri Brijendra Gaur, C/o Station Manager, Agra Fort, U.P, at present employed on the post of Head Booking Clerk & Parcel Clerk at Agra Fort Station, Western Railway, Kota Division.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Senior Divisional Commercial Manager (Estab.), Western Railway, Kota Division, Kota.

...Respondents.

Mr. Shiv Kumar - Counsel for the applicant

Mr. T.P. Sharma - Counsel for the respondents.

CORAM:

Hon'ble Mr. Ratan Prakash, Member(Judicial).

PER HON'BLE MR. RATTAN PRAKASH, MEMBER (JUDICIAL).

The applicant herein Shri Gopal Ram Gaur has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985 to declare the impugned order dated 18.5.98 (Annex.A1) as illegal and arbitrary and to be quashed with all consequential benefits.

2. The facts relevant for disposal of this application in brief are that the applicant was transferred on his own request vide order dated 16.6.97 to Agra Fort from Kota and he was accordingly relieved on 18.6.97 (Annex.A2) whereupon he joined duty at Agra Fort.
3. The grievance of the applicant is that the respondents have now transferred him again from Agra to Kota vide the impugned order dated 18.5.98 (Annex.A1) whereas he has not completed even one year of his posting at Agra Fort. It has been asserted that the applicant has not even completed his normal tenure period of posting at Agra, the impugned order as at Annex.A1 be quashed and set aside.
4. The respondents have opposed this application by filing a written reply to which a rejoinder has been filed. It is the stand of the respondents that this application is premature as the applicant has not exhausted the statutory remedy by filing a representation required under Sec.20 of the Administrative Tribunals Act. On merits it has been stated that the applicant has been transferred in the interest of administration and as such the applicant who is holding a transferable post can be posted anywhere.
5. I heard the learned counsel for the parties and examined the record in great detail.

(6)

6. The learned counsel for the applicant has drawn attention to Railway Board's letter No.244/89 dated 27.9.89 which is published at page 340 of Railway Board's Orders on Establishment, Vol.II published by Bahri Brothers and another Railway Board's order dated 17.6.96 at Sl.No.44 at page 159 of Bahri's Railway Board Orders on Establishment Matters published by Bahri Brothers, 1996 Edition, which respectively provide that the employees holding sensitive posts to which category the applicant belongs cannot be shifted before four years or five years. On the basis of these orders, the learned counsel for the applicant argued that the applicant has not completed his tenure of posting at Agra Fort, therefore, he cannot be transferred back to Kota.

7. On the contrary, the arguments of the learned counsel for the respondents is that the applicant having failed to make a representation and approached the the Tribunal directly; therefore, this O.A is pre-mature and further that if a direction is given to the respondent department it would dispose it of on the basis of the aforesaid Railway Board's orders.

8. I have given due thought on the arguments of the learned counsel for the parties. It is presumed that the orders which are issued by the Railway Board itself are in the knowledge of the authorities exercising administrative functions. When the applicant has been transferred to Agra Fort at his own request in the year 1997, he should have been allowed to complete his tenure posting unless there could have been certain extenuating circumstances which would have compelled the respondents to transfer him back to Kota. In the instant case, the applicant has already shifted to Agra Fort and his children are studying there. Moreover, the respondents have not posted any person in place of the applicant at Agra Fort. Further, when the respondents have not been careful to consider their own Railway Board's orders, the making of representation to the respondents would not have yielded any fruitful purpose; therefore, the objection raised to this effect by the respondents is rejected.

9. For all the aforesaid reasons, the impugned order dated 18.5.98 (Annx.A1) is hereby quashed so far as it relates to the applicant.

10. The interim direction issued earlier on 23.7.98 merges in this order. The O.A is disposed of with no order as to costs.


(Ratan Prakash)
Member (Judicial).