

(b)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

OA No.118/99

Date of order: 01.04.1999

1. Heera Lal S/o Shri Nanga aged about 55 years by caste Bairwa, Khallasi, resident of Railway Colony, Sawaimadhopur.
2. Harpal S/o Shri Bajranga, aged about 45 years, Welder, resident of Village Thingla, Sawaimadhopur.
3. Shyam Babu S/o Shri Ram Babu aged about 35 years, Cleaner, resident of Railway Colony, Sawaimadhopur.
4. Om Shiv S/o Shri Bangati Ram, aged about 41 years, Khallasi, by caste Kandera (Bunkar), resident of Near Railway Colony, Sawaimadhopur.

.. Applicants

Versus

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai- 20.
2. Divisional Railway Manager, D.R.M.Office, Jaipur.
3. Senior Divisional Mechanical Engineer (Establishment), D.R.M.Office, Western Railway, Jaipur.

.. Respondents

Mr. P.N.Jati, counsel for the applicants

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

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

ORDER

Per Hon'ble Mr. Gopal Krishna, Vice Chairman

Applicants, Heera Lal, Harpal, Shyam Babu and Om

*Chikhi*

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Shiv have filed this application under Section 19 of the Administrative Tribunals Act, 1985 challenging the order at Ann. Al dated 03.03.1999 by which their representation has been rejected. The applicants have also prayed for a direction to the respondents to retain them at Sawaimadhopur Railway Station.

2. I heard the learned counsel for the parties. Records of the case have been carefully perused.

3. The applicants are working in Group 'D' posts as Cleaner, Welder and Khallasi/Fitter in the office of the Carriage and Wagon at Sawaimadhopur. Out of these 4 applicants 3 belong to SC/ST and O.B.C. category. They are all low paid employees. The grievance of the applicants is that their children are prosecuting their studies at Sawaimadhopur and in case they proceed on transfer to Jaipur in the middle of the academic session, the education of their children may be adversely affected.

4. On the other hand, the respondents have contended that there was no requirement of keeping the staff at Sawaimadhopur due to non-availability of work and since there was a shortage of staff at Jaipur Railway Station and 11 posts of various categories had been transferred from Sawaimadhopur to Jaipur and no posts were available at Sawaimadhopur or nearby Railway Station against which the applicants could be accommodated, the applicants could not have any grievance in this matter. The learned counsel for the respondents has relied on 1997 SCC (L&S) 643 Laxmi Narain Mehar Vs. Union of India and Ors., in which it has been observed as follows:

"It is true that as far as possible, the convenience of the officer belonging to Scheduled Castes and Schedules Tribes may be considered and he may be posted near the home town, but the authority has power to transfer him when the administrative need arises."

The learned counsel for the applicant urged that the transfer in the mid-session of the applicants may adversely affect the education of their children. The learned counsel for the respondents has further relied on 1996 (1) SLR 225, Director of School Education, Madras and Ors. Vs. O.Karuppa Thevan and Anr., in which Hon'ble the Supreme Court observed as follows:

"Although there is no such rule, we are of the view that in effecting transfer, the fact that the children of an employee are studying should be given due weight, if the exigencies of the service are not urgent. The learned counsel appearing for the appellant was unable to point out that there was such urgency in the present case that the employee could not have been accommodated till the end of the current academic year."

5. It is borne out by the document at Ann. All dated 24.6.98 that 38 posts were available on that date in Sawaimadhopur Depot. These aggrieved 4 applicants could be accommodated against those posts and can be retained at Saawaimadhopur upto the end of the academic session i.e. upto May, 1999.

Quesn. 6. In the peculiar circumstances of this case, the

respondents are directed to retain the applicants at  
Sawaimadhopur on the posts held by them till May, 1999.  
The application is disposed of accordingly with no order  
as to costs.

*Gopal Krishna*  
(Gopal Krishna)

Vice Chairman