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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 13.07.1999

OA No.247/99

Devi Prasad J S/o Shri Jai Chand, aged 42 years at present Painter Grade II posted at Gangapur City, Western Railway.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The D.R.M., Western Railway, Divisional Office, Kota.
3. The Senior Section Engineer (Rail Div.), Bhawani Mandi.
4. The Senior Engineer, South, Gangapur City.
5. Abdul Wahid, Painter Grade-III under Trail Track Inspector (South), Gangapur City, Western Railway.

.. Respondents

Mr. Anil Khanna, counsel for the applicant

Mr. T.P. Sharma, counsel for respondent No.4

Mr. S.C. Sethi, counsel for the respondent No.5.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. N.P. Nawani, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Krishna, Vice Chairman

Applicant, Devi Prasad J, in this application under Section 19 of the Administrative Tribunals Act, 1985, has assailed the order at Ann. A1 dated 19.4.99 by which respondent No.5 Shri Abdul Wahid, Painter Grade-III was retained on the same post at Gangapur City and the applicant's transfer from Bhawani Mandi to Gangapur City on the post of Painter Grade-III was cancelled.

2. We have heard the counsel for the parties and have carefully perused the records. The parties have agreed to this case being disposed of at the stage of admission.

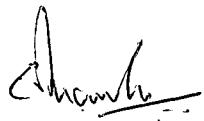
3. The grievance of the applicant is that he was transferred at his own request on the post of Painter Grade-III from Bhawani Mandi to Gangapur City by an order dated 1.4.99 (Ann. A2) and he was relieved on 3.4.99 and, thereafter, he joined at Gangapur City on 5.4.99 and that transferring him back to Bhawani Mandi, after cancelling his transfer and posting at Gangapur City, retaining respondent No.5 at that place, smacks of mala fides and arbitrariness.

4. The real facts are that the respondent No.5 was promoted to the post of Painter Grade-II and on promotion he was posted at Railway Station Bhawani Mandi and since the railway authorities on account of the promotion of respondent No.5 were under the expectation that respondent

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No. 5 will join at Bundi on promotion, they transferred the applicant to Gangapur City against the expected vacancy. The transfer of the applicant was made to Gangapur City on his own request. However, respondent No.5 refused his promotion and the refusal was accepted by the railway authorities with the result that respondent No.5 was debarred from promotion for a period of one year. Since respondent No.5 had foregone his promotion, he was ordered to be retained at Gangapur City on the post of Painter Grade-III, in terms of the provisions contained in Para 224 of the Indian Railway Establishment Manual, Vol.I, (Revised Edition 1989), it cannot be said that the impugned order was passed for extraneous considerations or with a view to accommodating respondent No.5.

5. We do not find any merit in this application. It is, therefore, dismissed with no order as to costs.


(N.P. NAWANI)

Adm. Member


(GOPAL KRISHNA)

Vice Chairman