

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Dated of order: 31.07.2003

OA No.357/2003

Kishan Lal s/o Shri Amar Chand, aged about 44 years, c/o Superintendent Engineer (Mechanical), DCM, Ajmer Road, PO Shyam Nagar, Jaipur, working as Driver in O/o SE (M), M/o Road Transport and Highway, Govt. of India, Regional Office, DCM, Ajmer Road, Jaipur.

.. Applicant

Versus

1. Union of India through Secretary, Ministry of Road Transport and Highway, Sansad Marg, New Delhi.
2. The Regional Officer, Ministry of Road Transport and Highways, Govt. of India, Regional Office, DCM, Ajmer Road, PO Shyam Nagar, Jaipur.

.. Respondents

Mr. R.K.Soni, - counsel for the applicant

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

O R D E R (ORAL)

Per Hon'ble Mr. M.L.Chaudhary

The applicant has filed the present application against the order dated 3rd July, 2003 (Ann.A5) whereby he has been transferred from Regional Office, Jaipur to Regional Office, Bangalore with immediate effect, with a prayer that the applicant may be adjusted against the post of Driver which has fallen vacant on account of retirement of Shri Ganga Ram on superannuation.

2. Heard the learned counsel for the applicant.

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2.1 The grievance of the applicant is that he is low paid employee and as per policy of the Government, such employees should ordinarily be posted near the place of their home town. It is contended that one post of Driver has fallen vacant on account of retirement of Shri Ganga Ram on superannuation. In this behalf, he has also made a representation dated 27.6.2003 (Ann.A4) to the office of respondent No.1 which is still pending. It is further averred that though he has been temporarily adjusted against the post of Driver which has fallen vacant on account of retirement of Shri Ganga Ram on superannuation on 30.6.03 vide order dated 4.7.03 (Ann.A6) till further orders, but he has apprehension that he may be relieved at any time. Thus, he has prayed that the impugned order Ann.A5 may be quashed and set-aside and the applicant may be adjusted as Driver against the post, which has fallen vacant on account of retirement of Shri Ganga Ram.

2.2 It is true that the order of transfer causes a lot of difficulties of dislocating the family set-up of concerned employee but on that score the order of transfer is not liable to be struck down unless such order is passed malafidely or is in violation of rules of service and guidelines for transfer. Who should be transferred where is a matter for the appropriate authority to decide. While ordering the transfer, there is no doubt that the authority must keep in mind the guidelines issued by the Government on the subject. Subsequently, if a person makes representation with respect to transfer, the appropriate authority must consider the same having regard to the exigency of administration.

2.3 In the instant case, the appropriate authority has temporarily stayed the transfer of the applicant from

Regional Office, Jaipur to Regional Office, Bangalore vide order dated 4th July, 2003 (Ann.A6) till further orders. From the material placed on record, it is also evident that the applicant has made representation against his transfer on 27.6.03 as the Car on which he was deployed as Driver was declared condemned and he has requested that he may be adjusted against the post, which will be falling vacant on account of retirement of Shri Gangaram on superannuation. The respondents have not passed any order on his representation.

3. Keeping in view the aforesaid circumstances, it is directed that the applicant shall make a detailed fresh representation to respondent No.1, with a copy to respondent No.2 for information, within 10 days from today alongwith copy of this order and by Speed Post to avoid delay. In that eventuality, the respondent No.1 is directed to consider the case of the applicant in view of the fact that the applicant is low paid employee and as per policy of the Government, Group 'C' and 'D' employees has to be adjusted in their home district as far as possible whereas in the instant case the applicant has been transferred out of the State i.e. Regional Office, Jaipur to Regional Office, Bangalore and especially when a post is falling vacant. In case such representation is made within 10 days, in that event, the respondent No.1 shall decide the said representation within 4 weeks from the date of receipt of the representation keeping in view the aforesaid facts. Till the representation of the applicant is not decided by respondent No.1, status-quo as of today, shall be maintained, qua the applicant.

(Signature)

4. With these observations, the OA is finally disposed of with no order as to costs.



(M.L.CHAUHAN)

Member (Judicial)