

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH.

O.A.NO.558/03

February 3, 2005.

CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN.

Nirnimesh Kumar son of Shri Ram Nath Sharma, aged about 42 years, Resident of Railway Colony, near R.M.S. Office, District Sikar, presently working as Senior T.I.A. Sikar.

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Applicant

By : Mr.Amit Nath Mathur, Advocate.

Versus

1. Union of India through Chairman, Railway Board, Department of Railway, Ministry of Railway, New Delhi.
2. The General Manager, Western Railway, Church Gate, Mumbai.
3. The General Manager, North West Railway, Jaipur.
4. The financial Advisor and Chief Accounts Officer, Western Railway, Mumbai.

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Respondents

By : Mr.S.S.Hasan, Advocate for Respondents 1,2&4.
None for R.No.3.

ORDER (ORAL)

KULDIP SINGH,VC

The applicant working as I.T.A. Sikar is aggrieved by an order dated 4.6.2003 (Annexure A-1) by which he has been transferred and posted as Senior T.I.A., A.D.I. Division, Headquarters, Ajmer. He is also aggrieved by the letter dated 27.12.2002 (Annexure A-2) by which his representation for transfer to Sikar has been rejected on the ground that the options were invited from the employees on account of re-organization of Railway and the transfer is made under the order and letter of Railway Board letter dated 6.12.1996. The applicant has also challenged order dated 31.3.2003 (Annexure A-3) by which some employees were transferred from I.A.O. Ajmer, Western Railway to North-Western Railway, with immediate effect.

The applicant has challenged the impugned orders on the ground that the options were invited for transfer to North Western Railway, Jaipur in reference to the Railway Board letter dated 6.12.2002 and 9.7.2002. The applicant submitted his option for transfer in North Western Railway on spouse ground, as the wife of the applicant is a teacher in the Education Department of State of Rajasthan and she is posted at Government R.K. Maroo Girls Senior Secondary School at Sikar. However, his request for transfer on the ground of his being a couple case has not been taken into consideration. It is further submitted that the Central Government had made an announcement for creation of certain additional zonal railway and by virtue of the said declaration in the year 1996, a decision was taken to create North Western Railway Zonal Railway having its Headquarters at Jaipur so the Railway having 8 divisions including Jaipur, Ajmer and Kota Divisions, is to be separated. The decision was finalized by the Government and accordingly the process for establishment of North Western Railway at Jaipur was initiated. The Western Railway had, thus, called for option of employees as to whether they want to continue in Western Railway or to go to newly created zones namely North Western Railway. The applicant and others submitted their option for transfer to North Western Railway zones and according to them they were taken in the list to be prepared for the purpose of transfer in the newly created Zonal Railway. However, formal notification for creation of new zonal railway namely North Western Zonal Railway was issued in June, 2001 (Annexure A-4).

The respondents again called for options from the employees to choose either of the newly created zonal railway or to go to the Western Railway. Such option was not required for every employee particularly who had given their option in 1997 itself but for out of formality options were again invited. The policy framed by the

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respondents for transfer under the Option Scheme is Annexure A-5. The applicant submitted his option for transfer as his being a couple case and his younger son is 8 years of age and is victim of Asthma and needs emergency at the time and his mother is about 80 years who is totally dependent upon the applicant. She is also suffering from medical complications. Such representation is Annexure A-6. He submits that the respondents framed a policy on 15.11.1997 (Annexure A-7) which includes instructions on inter Railway and intra-Railway transfer of group C and D employees. Under this policy, husband and wife may invariably be posted together in order to enable them to lead a natural family life and look after the welfare of their children specially till the children are 10 years of age. The policy further provides that the Railway Administration should strictly adhere to the existing instructions referred to in the policy. The applicant is stated to have submitted various representations on the basis of his being a couple case, such as Annexure A-9 but to no avail. He has prayed that the impugned orders, Annexures A-1 to A-3 may be quashed and set aside and he be ordered to be transferred to Sikar.

Respondents are contesting the original Application by filing a detailed reply. They submit that when the new zones were formed, respondents framed a policy of the transfers and the subsequent transfers have been in accordance with the policy. The representation of the applicant was rejected on the ground that the options were invited from the employees because of reorganization of railway and normal transfers are made under the order and letter of Railway Board dated 6.12.1996, hence his request for transfer cannot be considered.

I have heard the learned counsel for the parties and perused the material on the file.

The learned counsel for the respondents submitted that the

policy of transfer consequent upon the formation of new zones had been subject matter of challenge in an earlier O.A before a Division Bench of this Tribunal and the Division bench has upheld the policy and since the transfer of the applicant is in accordance with the policy, so the applicant cannot raise any grievance.

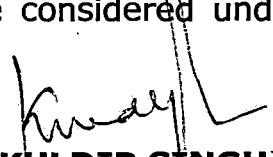
Learned counsel for the applicant could not dispute the contention of learned counsel for the respondents. However, he submits that though representation of applicant has been turned down on the basis of the policy framed by the department and on the basis of the letter issued by the Railway Board but his representation has not been considered in the right perspective inasmuch as he had sought transfer to Seeker on the ground of his wife being working as a Teacher at Sikar. The learned counsel for the applicant has also filed an M.A for summoning the record where the representation of the applicant had been considered and disposed of. It has been stated on behalf of the respondents that the request of the applicant was rejected on the ground that if his case is considered on the basis of his spouse being working at Seeker, that will open flood gates for similar requests and thus his request has been turned down on that ground itself, without examining merits of the representation of the applicant.

In view of the submissions made by the learned counsel for the parties at bar, I find that the learned counsel for the applicant has no grievance for rejection of his transfer or posting at Sikar under the policy of the respondents framed consequent upon re-organization of the Railway zones. The only grievance of the applicant is that his request for transfer based on the policy of spouse linked posting has not been considered in right perspective. In my view even though the applicant cannot raise any grievance and infact he has no such grievance for non-consideration of his request for transfer under the policy framed for shifting of staff on re-organization of new Zones but

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as far as his representation for his transfer to Sikar on the basis of spouse linked policy is concerned, the department has to consider the same. It would, thus, be in the interest of justice to issue a direction that the department shall consider the request of the applicant and pass a reasoned and speaking order within a period of two months from the date of receipt of copy of this order. Ordered accordingly. Since it is alleged and accepted that request of the applicant has not been considered only on the ground that such consideration and acceptance may open flood gates for more requests, his request will not be rejected on this ground and has to be considered under the couple case policy. No costs.



(KULDIP SINGH)
VICE CHAIRMAN

February 3, 2005.

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