

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No 189 of 2006

Jabalpur, this the 28th day of March, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Mr. G. Shanthappa, Judicial Member

Smt. P. Premlata,
W/o. Shri Murlidhar,
aged about 47 years,
Senior Stenographer,
Commercial Department,
Divisional Railway Manager's
Office, Habibganj, Bhopal (MP).

..... **Applicant**

(By Advocate – Shri Vipin Yadav)

V e r s u s

1. Union of India, through : Secretary,
Ministry of West Central Railway,
New Delhi.
2. Divisional Railway Manager,
Bhopal Division, West Central
Railway.
3. Divisional Personal Officer,
Bhopal Division, West Central
Railway.
4. Shri H. Shivrajan,
Stenographer-II,
Diesel Shed, Itarsi.

..... **Respondents**

(By Advocate – Shri M.N. Banerjee, Standing Counsel for the Railways)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

The above application is filed being aggrieved by the orders of the transfer dated 23.3.2006 from Bhopal to Itarsi. Subsequent to the order the applicant submitted her representation dated 23.3.2006 on the date of transfer itself as per Annexure A-6. In the said representation she has referred the orders of this Tribunal in OA No. 37/2006 in which Deepak Kulpariya has obtained the orders and in which the fourth respondent was Shri H. Shivarajan. In the present application also the same Shri H. Shivarajan has been made a party as fourth respondent. The grievance of the applicant is that the respondents have not followed the seniority list and also they have violated the guidelines issued. All the averments made by the applicant in the representation have not been considered by the respondents. The respondents are not supposed to transfer the applicant during the middle of the year. The applicant referred para 17 of the orders of the Tribunal passed in OA No. 37 of 2006 which is relevant for the consideration of the said representation.

2. Without going to the merits of the application, the learned counsel for the applicant has submitted that if direction is given to the respondents to consider the representation she is satisfied.

3. As we directed, the Standing counsel for the Railways Shri Banerjee to take notice for the respondents, accordingly accepts the notices and he has opposed for grant of any kind of interim orders or any directions on the orders of the transfer.



4. He has further submitted that all the averments have been considered and the decision so taken is a policy decision and this Tribunal need not interfere with the administrative orders. Accordingly, he has requested for rejection of the application.

5. We have heard the learned counsel from either sides. Since the applicant has submitted his representation on the said date itself, the said representation is pending. It is an admitted fact from either side that the order of transfer is made during the middle of the year i.e. before the end of the academic year. As per the judgment of the Hon'ble Apex Court in the case of Director of School Education, Madras & Ors. Vs. O. Karuppa Thevan & Anr., 1996(1) SLR 225, the Apex Court held that transfer should have not been effected during mid-academic term unless there was an urgency to do so. Para 2 of the said judgment is extracted below :

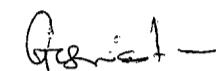
“The Tribunal has erred in law in holding that the respondent employee ought to have been heard before transfer. No law requires an employee to be heard before his transfer when the authorities make the transfer for the exigencies of administration. However, the learned counsel for the respondent, contended that in view of the fact that respondent's children are studying in school, the transfer should not have been effected during mid-academic term. 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. We, therefore, while setting aside the impugned order of the Tribunal, direct that the appellant should not effect the transfer till the end of the current academic year. The appeal is allowed accordingly with no order as to costs.”



According to the judgment of the Hon'ble Apex Court the service of the applicant has to be continued till the end of the academic year i.e. 30th April, 2006.

6. We, therefore, direct the respondents to consider the representation of the applicant at Annexure A-6 before 30th April, 2006 and till then the applicant has to be continued, to work at Bhopal if she is not already relieved from the post where she was working i.e. at Bhopal.


(G. Shanthappa)
Judicial Member

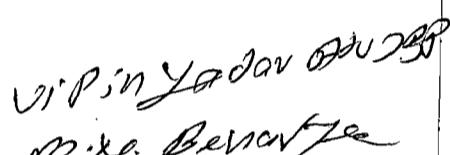

(Dr. G.C. Srivastava)
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/न्या..... जबलपुर, दि.....
प्रतिलिपि आधी भित्ति:-

(1) संयिव, उच्च न्यायालय दर एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/वहु के काउंसल
(3) प्रसारी श्री/श्रीमती/वहु के काउंसल
(4) अध्यक्ष, वेदां, जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही देतु


Mr. B. S. Verma
DR 2000


T. K. S. Verma
29/3/06