

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT CAMP : INDORE

Original Application No.278 of 2004

Indore, this the 29th day of April, 2005

Hon'ble Shri M.P.Singh Vice Chairman
Hon'ble Ms.Sadhna Srivastava-Judicial Member

Ajeay Singh S/o late Chandrapal Singh,
aged about 34 years, at present posted
as Junior Engineer Grade-II at
Electricity Department (General Services
T.R.D.)Western Railway,Indore (M.P.)

- APPLICANT

(By Advocate -Shri S.K.Bhattacharya on behalf
of Shri D.M.Kulkarni)

Versus

1. Union of India,Through Secretary,
Railway Department, Rail Bhawan,
New Delhi.

2. The General Manager,Western Railway,
Church Gate,Mumbai.

3. D.R.M.,Ratlam Division, Western Railway,
Ratlam (M.P.)

- RESPONDENTS

(By Advocate - Shri Y.I.Mehta)

O R D E R (Oral)

By M.P.Singh, Vice Chairman :-

By filing this Original Application, the applicant
has sought a direction to quash the order dated 29.11.2003
(Annexure-A-7) by which he has been transferred to Dahod.

2. The brief facts of the case are that the applicant
was initially working as Junior Engineer Grade-II at
Bamniya in the office of Transmission and Distribution
(TRD)Department in Ratlam Division. He had^{submitted} an application
for his transfer at his own request to Indore in Electrical
Department where one post of Junior Engineer Grade-II was
lying vacant. The respondent No. 2 i.e. General Manager,
Western Railway, Mumbai has considered the application
preferred by the applicant and transferred him to Indore.
Thereafter, the applicant joined the said post in Indore on
27.3.2002. Thereafter, some association^{had 2} objected to his
transfer on the ground that the applicant has been transfe-
rred and posted against the direct recruitment quota. It
was clarified by the respondent No. 2 ~~that~~ the applicant has


been transferred against the promotion quota. However, the applicant has now been ^{re-}transferred on the ground that he did not possess the requisite qualification required for being transferred to Electrical Department. The respondents vide letter dated 7.10.2003 has re-transferred the applicant to Sehore in his original Department.

Vide order dated 16.10.2003 the aforesaid order dated 7.10.2003 was modified by directing the applicant to join his duty at Shujalpur. Vide order dated 29.11.2003 the respondents have again modified the order dated 16.10.2003 and the applicant has now been transferred to Dahod in Ratlam Division, where the applicant has joined his duties on 14.5.2004. It is against this order the applicant has filed this OA.

3. The learned counsel for the applicant has stated that, the applicant has 8 years old daughter and she is suffering from epilepsy and is getting regular treatment from Doctors at Indore. The applicant, therefore, made a request to consider his transfer back to Indore on medical grounds as his daughter has been getting treatment from Doctors in Indore.

4. On the other hand the learned counsel for the respondents has stated that the OA has become infructuous on the ground that the applicant has now again been transferred from Dahod to Piploth vide order dated 9.9.2004 and the applicant has also joined there on 25.9.2004.

5. We have given careful consideration to the rival contentions made on behalf of the parties. It is a settled legal position that as to who should be transferred where is a matter for the appropriate authority to decide and unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it. In this case, no malafides have been attributed by the applicant against any officer nor there is violation of any statutory guidelines. Moreover, since the applicant has been transferred and has joined to another place at Piploth, this OA has become infructuous, as the applicant has challenged the order of his transfer to Dahod.



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6. In view of the aforesaid facts and circumstances of the case, we do not find any merit in this Original Application.

7. Before we may part, we may observe that the applicant has made a request for his transfer to Indore on the ground of treatment being given to his daughter who is suffering from epilepsy. The applicant had also accepted the bottom seniority when he was transferred to Indore at his own request. Keeping in view the personal problems of the applicant, we direct the applicant to make a detailed representation for his transfer to Indore within a months from today and if he complies with this order, the respondents are directed to consider the representation of the applicant sympathetically for his transfer to Indore against the ^{an eligible &} post in TRD or in ⁱⁿ any other ^{Department &} post in Indore, as per rules.

8. In the result, with the directions contained in the preceding paragraph, this Original Application is dismissed, however, without any order as to costs.

(Ms. ~~Sadhna~~ Srivastava)
Judicial Member

(M.P. Singh)
Vice Chairman.

rkv.

पूठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिनिधि जांचे रिपोर्ट:-

(1) सचिव, उच्च न्यायालय न्यायिक शाखा, जबलपुर

(2) अवरक ओ/सीपी, रा

(3) प्रसंगी श्री/सीपी/रा.....के काउंसल

(4) वरिष्ठ, कोषाध्यक्ष, जबलपुर न्यायाधीश

राजना एवं आवश्यक जानकारी हेतु,

उप रेजिस्ट्रार

DM. Kulkarni 02/12/04
4.2 Mehra 02/12/04

Filed
18-7-05