

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

JABALPUR

Original Application No.371 of 2003

Jabalpur, this the 1st day of September, 2003

Hon'ble Shri D.C.Verma - Vice Chairman (Judicial)  
Hon'ble Shri Anand Kumar Bhatt - Administrative Member

M.K.Sharma, Son of Shri Ram Narayan  
Sharma, Aged about 48 years, Resident  
of Kamla Nagar Crossing, Navin Nagar,  
72, Kotra, Bhopal, M.P.

- APPLICANT

(By Advocate - Shri S.C.Sharma)

Versus

1. Union of India, Through Secretary,  
Ministry of Railways, Govt. of India, New Delhi.
2. Chief Personnel Officer (CSTM) Staff Office,  
Central Railways, Mumbai MS.
3. Divisional Railway Manager, Central Railways,  
Bhopal M.P.
4. General Manager, Central Railways, Mumbai V.T.,  
Mumbai.
5. Divisional Railway Manager,  
Central Railways (West),  
Bhopal M.P.
6. General Manager,  
Central Railway (West),  
Jabalpur M.P.

- RESPONDENTS

(By Advocate - Shri S.P.Sinha)

O R D E R (Oral)

By D.C.Verma, Vice Chairman (Judicial)-

By this Original Application the applicant has challenged the order dated 14.11.2002 (Annexure-A-5) by which the applicant has been transferred from Bhopal to Bhusawal on promotion. The applicant has also challenged Annexure-A-9 dated 25.3.2003 by which the applicant's representation for allowing him to continue at Bhopal has been rejected.

2. The background of the case is that for illegal extortion of Rs.1,000/- from a passenger, a vigilance

Contd.....2/-

enquiry was made against the applicant. In the year 1999, the applicant was transferred from Bhopal to Bhusawal. The said order was challenged by the applicant by filing OA No.64 of 2000.

3. In the meanwhile the applicant underwent treatment for cardiac ailment at Bhopal. In view of the interim order granted by the Tribunal in OA 64/2000 the applicant continued to work at Bhopal. While deciding the said OA 64/2000, the Tribunal directed the respondents to decide the applicant's representation by a speaking order within the prescribed time. The respondents, however, decided the representation in the extended time. Meanwhile the applicant by Annexure-A-5 dated 14.11.2002 was promoted from the scale of Rs.5000-8000 to the scale of Rs.5000-9000 and transferred to Bhusawal. The applicant challenged the order dated 14.11.2002 by filing OA No.858/2002. The Tribunal while deciding OA 858/2002 vide its order dated 3.1.2003 directed the applicant to make a representation and in case the applicant is agree to forego his promotion, the respondents were to pass appropriate orders on the applicant's representation to forego the promotion. The applicant made a representation Annexure-A-8 dated 6.1.2003. The same was rejected by the respondents by the other impugned order dated 25.3.2003(Annexure-A-9). The applicant has, therefore, in this OA challenged the order of transfer on promotion. (Annexure-A-5) and the order rejecting the representation(Annexure-A-9).

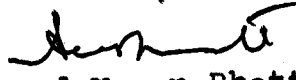
4. Counsel for the parties have been heard at length.

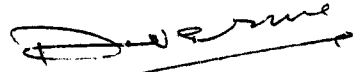
5. An order of transfer can be interfered with only if the same is passed not by the competent authority or in violation of any statutory rules. It

can also be interfered with if passed malafidely. In the present case no malafide is alleged. ~~against~~ There is nothing to show that the transfer order has not been passed by the competent authority or it is in violation of any statutory rules. Thus, on merits, the OA has no grounds.

6. Only on humanitarian condition that the applicant has undergone cardiac treatment at Bhopal he be retained at Bhopal and be not transferred from Bhopal to Bhusawal was to be considered by the respondents. The respondents have already taken a decision on the applicant's representation. It is seen that initially the applicant was transferred from Bhopal to Bhusawal in the year 1999. Though more than five years have passed, the applicant still wish to remain at Bhopal. If the applicant's ground to retain him at Bhopal as mentioned, is accepted, the applicant cannot be transferred at any time from Bhopal. The applicant has all India transfer liability, and the medical facilities as mentioned by the department's order are available at Bhusawal also, which is quite near to Mumbai.
7. The learned counsel for the applicant submitted that various vacancies are available at Bhopal and consequently the applicant can be accommodated in any of the said vacancies. Even if that be so it is always open to the respondents to consider any representation made by the applicant to accommodate the applicant, if possible, at Bhopal but transfer on promotion, the order impugned in the present OA, does not suffer from any infirmity. Consequently, it

has to be maintained. The O.A. is accordingly  
dismissed. Costs easy.

  
(Anand Kumar Bhatt)  
Administrative Member

  
(D.C. Verma)  
Vice Chairman (Judicial)

rkv.

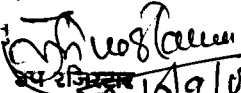
पृष्ठान्त सं ओ/न्या.....जबलपुर, दि.....

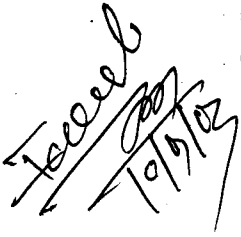
पतिनिर्दिष्ट अद्योक्षित:-

- (1) सचिव, उच्च न्यायालय, जबलपुर
- (2) अध्यक्ष, न्यायिक सेवा आयोग, जबलपुर
- (3) प्रत्यक्षी, न्यायिक सेवा आयोग, जबलपुर
- (4) गंधर्व, न्यायिक सेवा आयोग, जबलपुर

सूचना एवं आवश्यक कार्यवाही

S.C. Sharma. A de  
S.P. Sinha. A de

  
16/9/03

  
16/9/03