

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.58 of 2002

Jabalpur, this the 4th day of November, 2003

Hon'ble Shri M.P.Singh-Vice Chairman

Narayan Das, S/o Babulal, aged about 52 years,
R/o Near Birla Nagar Railway Station, Sanjay
Nagar, Behind J.C.Mills, Near Temar Flour Mills,
Agra Road, Gwalior - APPLICANT

(By Advocate - Shri V.Tripathi)

Versus

1. Union of India through its Secretary, Railway Bhawan, New Delhi.
2. The General Manager, Central Railway, Mumbai;CST.
3. The Divisional Railway Manager, Jhansi Division, Jhansi.
4. Shri B.S.Rawat, Loco Foreman, Lecoshed Gwalior.
5. Shri Sunil Kumar Dawra, Goods Driver through Loco Foreman, Lecoshed, Gwalior.
6. Shri Rajendra Kumar Sahu, Goods Driver, through Loco Foreman, Lecoshed, Gwalior.
7. Shri Usman Ali, Goods Driver, through Loco Foreman, Lecoshed, Gwalior. - RESPONDENTS

(By Advocate - Shri M.N.Banerjee)

O R D E R (Oral)

The applicant has sought the following main relief -

"Set aside the order dated 29.10.2001 ANNEXURE A-1 by which he has been transferred to Gwalior to Banda order dated 1.1.2002 Annexure-A-2 by which his representation was rejected and the order..."

2. The undisputed facts of the case are that the who was working as Goods Driver applicant/was transferred vide order dated 29.10.2001 in the same capacity. He filed O.A.No.778/2001 which was decided by this Tribunal vide order dated 23.11.2001 by directing the applicant to prefer a fresh representation to respondent no.3,

and respondent no.3 was directed to dispose of the representation by a speaking order within six weeks. A copy of the order passed by the Tribunal is placed on record as Annexure-A-5. The respondent no.3 considered the representation of the applicant and rejected it vide order dated 1.1.2002 (Annexure-A-2). Hence the applicant has again come to the Tribunal claiming the aforesaid relief.

3. Heard the learned counsel for the parties and perused the record.

4. The learned counsel for the applicant has stated that the applicant was transferred from Gwalior on the ground that in Gwalior 8 Goods Drivers are working against the sanctioned strength of six but the ground taken by the respondents is wrong as they have not taken into account two posts sanctioned for Tower Wagon. Apart from this, the applicant has submitted his personal difficulties. He did not shift his family to Banda as his children are studying in Gwalior and other good educational institutions were not available at Banda. Moreover, the syllabus and the educational circle ~~was~~ at Banda which comes under Uttar Pradesh, ^{which} ~~is~~ different from Gwalior in Madhya Pradesh.

5. The learned counsel for the respondents has submitted that the applicant has been transferred on administrative grounds as five posts of Goods Driver were lying vacant at Banda while three employees were working in excess as Goods Driver at Gwalior. According to the learned counsel for the respondents, the applicant has already resumed his duties at Banda and as the transfer order has been carried out by him, this O.A. has become infructuous.

6. After careful consideration of the arguments advanced by both the learned counsel, it is noticed that the transfer order was issued in October, 2001. The applicant has already joined his duties at the transferred place at Banda. Now it is the very settled position of law that the transfer is not only an incidence of service but it is a condition of service.

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The Hon'ble Supreme Court has time and again has held that the Courts and Tribunals should not interfere in the matters of transfer unless they are against the statutory guidelines, malafide or punitive in nature. In this case we do not find the impugned order of transfer is suffering from any such infirmities, therefore, it does not require any interference by this Tribunal. However, it is observed that the respondents will themselves consider the difficulties faced by the applicant while considering his transfer from Banda to any other place in near future. With this observation, the O.A. is disposed of. No costs.

M.P.Singh
(M.P.Singh)
Vice Chairman

rkv.

प्रस्तावकर्त्ता राम और व्यापारी जगतलाल जी

યુદ્ધાચિત્તાંશુ ॥ ૧૮

- (1) राजीवन, ८ वर्ष व्यायामसा लार एवं विद्युत
- (2) विजयन श्रीरामी/कु..... विद्युत
- (3) राजीवन श्रीरामी/कु..... विद्युत
- (4) विजयन नेप.अ. ज्यवलाल विद्युत

V. Tropaeoli, subsp.
var. ~~canescens~~

उपराजिता 16/11/03

June 11th
2011