

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 858/2002

M.K. Sharma, S/o. Shri Ram  
Narayan Sharma, Aged 47 years,  
R/o. Kamla Nagar Crossing, Kotra,  
Bhopal (M.P.).

... Applicant

V e r s u s

1. Union of India,  
Through : Secretary,  
Ministry of Railways,  
New Delhi.
2. Chief Personnel Officer (CSTM),  
Staff Office, Central Railway,  
Mumbai.
3. Divisional Railway Manager,  
Central Railway, Bhopal.
4. General Manager,  
Central Railways, Mumbai V.T.,  
Mumbai.

... Respondents

Counsel :

Shri S.C. Sharma for the applicant.

Coram :

Hon'ble Shri R.K. Upadhyaya -- Member (Admnv.).

O R D E R (Oral)

(Passed on this the 3rd day of January 2003)

After hearing the learned counsel for the applicant, it is noticed that the applicant is aggrieved by the order of transfer to Bhusaval from Bhopal. Earlier he was transferred vide order S.O.O. 121/1999. But against that order the applicant has<sup>a</sup> filed OA No. 64/2000, in which this Tribunal by an order dated 19/06/2002 directed the respondents to dispose of the pending representation against the transfer order which has been now disposed of as per order dated 13/11/2002 (Annexure A-4) in which his representation has been decided against the applicant and subsequently the applicant has been again transferred to Bhusaval on promo-

*C. K. Sharma*

tion as per order dated 14/11/2002 (Annexure A-5).

1.1. The learned counsel of the applicant states that there are several vacancies available at Bhopal and because of Bye-Pass surgery undergone by the applicant at Bhopal Memorial Hospital & Research Centre he has become very weak and is performing his duties with great difficulty. The learned counsel states that <sup>are or</sup> no where else in Madhya Pradesh similar facilities <sup>are or</sup> available and the life of the applicant will be at risk if he is transferred out of Bhopal. The learned counsel further states that the applicant is willing to forgo his promotion and for this purpose he states that a representation <sup>or being</sup> is <sup>or</sup> filed by the applicant to respondent No. 3. He also states that the applicant has not been relieved so far in pursuance to the impugned order dated 14/11/2002 (Annexure A-5).

2. After hearing the learned counsel of the applicant and after considering the material available on record, it is desirable that the applicant's case may be reconsidered in the light of the submissions made by the learned counsel of the applicant during the course of hearing of this application. In case, the applicant makes a representation forgoing his promotion, the respondent No. 3 is directed to reconsider the case of the applicant for being retained at Bhopal. The learned counsel has also <sup>or</sup> stated that the reason for transferring the applicant from Bhopal was on account of false vigilance case pursuant to which a disciplinary proceeding was started and the applicant has been exonerated. Therefore in the opinion of the learned counsel, the very basis for transfer no longer survives. However without expressing any opinion on the claims of the applicant, the applicant is directed to file a representation

*Chandram*

including the willingness to forgo promotion within 4 weeks from today to respondent No. 3, i.e., Divisional Railway Manager, Central Railway, Bhopal. If such a representation is made the respondent No. 3 is directed to dispose of the same by speaking order within a period of 2 months from the date of its receipt. During the pendency of consideration of representation, status quo as on today may be maintained. Certified copy be made available to the counsel of the applicant and Standing Counsel for Railways.

3. In view of the direction in the preceding paragraph this Original Application is disposed of at the admission stage itself.

*(Signature)*

(R.K. UPADHYAYA)  
MEMBER (A)

पृष्ठंकन सं ओ/न्या.....जबलपुर. दि.....

प्रतिलिपि अग्रे भिज्ज -

- (1) सचिव, उच्च न्यायालय जबलपुर
- (2) आवेदक श्री/श्रीमती/शु. .... के काउंसल SC Sharma, Nela
- (3) प्रत्यक्षी श्री/श्रीमती/शु. .... के काउंसल Res. No. 3 D.R. D. Bhopal
- (4) मंत्रालय, कोष अ., जबलपुर न्यायनीति सूचना एवं आवश्यक कार्यवाही हेतु

*(Signature)*  
उप-रजिस्ट्रार  
3/1/03

copy Issued to Sh. S. C. Sharma, A.L.

on. 3/1/03

Issued  
copy to Res. No. 3  
6.1.03