

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.128/2006.

Jaipur, this the 4th day of April 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

R. N. Verma
S/o Shri Ram Ji Lal,
Aged about 56 years,
R/o 513, Arjun Lal Sethi Colony,
Parvatpura Bypass, Ajmer.

... Applicant.

By Advocate : Shri C. B. Sharma.

Vs.

1. Union of India
Through General Manager,
North Western Zone,
North Western Railway,
Jaipur 302 006.
2. Divisional Railway Manager,
North Western Railway,
Ajmer Division,
Ajmer.
3. Divisional Commercial Manager,
North Western Railway,
Ajmer Division,
Ajmer.

... Respondents.

: O R D E R (ORAL) :

The applicant has filed this OA thereby praying for the following reliefs :-

"(i) That respondents be directed to produced entire record relating to the case and after perusing the same transfer order of the applicant from Ajmer to Marwar Junction vide order dated 23/3/2006 (Annexure A/1) be quashed and set aside with all consequential benefits.

(ii) That the respondents be further directed to allow the applicant to work at Ajmer till finalization of disciplinary proceedings.

(iii) That the respondents be further directed to shift officials those having more stay than the applicant at Ajmer prior to giving effect transfer of the applicant.

(iv) That the costs of this application may be awarded."

2. Briefly stated, the facts of the case are that the applicant is holding the post of Train Conductor in the scale of Rs.5500-9000 and is posted at Ajmer. As per transfer policy formulated by the respondents, every person is required to be transferred from sensible post in case their stay is for four years or more. Accordingly, the name of the applicant was included in the list of proposed employees to be transferred in the year 2001 and also in the list of 2005. However, the applicant was transferred vide impugned order dated 23.03.2006 (Annexure A/1) from Ajmer to Marwar Junction. It is this order which is under challenge in this OA.

3. The grievance of the applicant in this OA is twofold. Firstly, that the tenure of stay of S/s K. K. Sharma and S. P. Bhattacharya at Ajmer has been shown as more than 6 years whereas in the proposed transfer list prepared in the year 2001 (Annexure A/3), the stay of both these officials has been shown as 24 years and 10 years. Thus, according to learned counsel for the applicant their stay in 2005 is 28 years and 14 years respectively and they should have been transferred first

in preference to the applicant. The second grievance of the applicant is that departmental enquiry is pending against him at Ajmer and he should not be transferred till the conclusion of the inquiry. Learned Counsel for the applicant submits that for that purpose, representation has been made by the applicant to Respondent No.2 vide letter dated 29.03.2006 (Annexure A/6) which is still pending. It is on these basis the applicant has filed this OA.

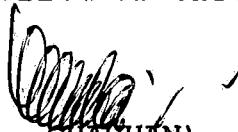
4. I have heard the Learned Counsel for the applicant at admission stage.

5. Who ~~should~~ be transferred and where, is a matter to be considered by the appropriate authority. It is not open for this Tribunal to entertain such matter unless there is allegation of malafide or infraction of statutory rule. From the material placed on record, it is also apparent that the applicant has made a representation to Respondent No.2 thereby ventilating his grievances. In these circumstances, I am of the view that ends of justice will be met if a direction is given to Respondent No.2 to decide the representation of the applicant by passing a speaking and reasoned order. Accordingly, the present OA is disposed of with a direction to Respondent No.2 to dispose of the representation of the applicant Annexure A/6 by passing a speaking and reasoned order. Till such representation is not disposed of/decided by

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Respondent No.2, the applicant shall not be forced to join pursuant to the impugned order Annexure A/1, in case, he has been relieved.

6. With these observations, the OA is disposed of at admission stage. The applicant is directed to submit a copy of the OA as well as a copy of this order to Respondent No.2 within a period of three days from today.


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./