

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

28.05.2008.

OA No. 198/2008

Mr. Shailendra Srivastava, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.



(M.L. CHAUHAN)
MEMBER (J)

AHQ

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 28TH day of May, 2008

ORIGINATION APPLICATION NO. 198/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

s.c. Tripathi son of Shri S.P. Tripathi aged about 53 years,
resident of E/3/B Railway Colony, Sikar. Presently posted as
S.E. (P.Way) Sikar under AEN, Sikar.

....APPLICANT

(By Advocate: Mr. Shailendra Shrivastava)

VERSUS

1. Union of India through General Manager, North Western Railway, IN front of Railway Hospital, Hasanpura, Jaipur.
2. Divisional Railway Manager, DRM office, North Western Railway, Jaipur.
3. Sr. Divisional Personal Officer, DRM office, North Western Railway, Jaipur.

.....RESPONDENTS

(By Advocate: ----)

ORDER (ORAL)

The applicant has filed this OA against the impugned order dated 25.03.2008 (Annexure A/1) whereby the applicant was transferred from Sikar to Reengus. The grievance of the applicant is that the said order has been passed in violation of the instructions issued vide order dated 10.05.2006

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(Annexure A/2) whereby it is recorded that the transfer order should be issued in the month of December/January. It is further stated that the applicant has also made a representation dated 17.05.2008 to the respondents thereby ventilating his grievances. It is on the basis of these pleadings, the applicant has prayed for quashing of the impugned order dated 25.03.2007 (Annexure A/1) so far as it relates to the applicant.


2. I have given due consideration to the submission made by the learned counsel for the applicant. I am not convinced that the applicant has made out any case for the interference of this Tribunal. Admittedly, the applicant has completed his tenure at Sikar. So far as the instructions dated 10.05.2006 is concerned, these instructions no doubt stipulates that transfer order should be issued in the month of December/January and order should be made effected w.e.f. March/April. But according to me, the applicant is not legally entitled to claim benefit on the basis of violation of administrative instructions as Hon'ble Supreme Court has held in number of decisions that the instructions issued by the Administration ^{are} ~~shall~~ required to be followed by the officer concerned and violation of the instructions will not give any legal right to the official to challenge the

validity of the transfer order. Be that as it may, from the perusal of the instructions dated 10.05.2006 (Annexure A/2), it is evident that purpose of issuing such instructions is that order of transfer should be made effected after a period of two months from the date when it is issued. In the instant case also, the impugned order has been issued on 25.03.2008 and the same has not been made effective till date i.e. after the expiry of two months. Hon'ble Supreme Court has repeatedly held that who should be transfer and where is the matter to be decided by the competent authority. It is not open for the Court to interfere in such matters unless there is a case of mala fide or violation of statutory rule/instructions. This is not the case of such nature.

3. Learned counsel for the applicant while drawing my attention to the representation dated 17.05.2008 (Annexure A/5) submits that Stock verification of the material, has not been completed so far and further that departmental proceedings is pending against the applicant, which is likely to be completed shortly, as such prayed that the applicant may be permitted to remain at Sikar till the conclusion of departmental inquiry and also the stock verification of the material, which has not been completed so far.

4. I have given due consideration to the submission made by the learned counsel for the applicant and I am of the view that the applicant is entitled to some relief on the basis of contention so raised and ^{re. generalisation} high-lighted vide Annexure A/5. Accordingly, respondents are directed not to give effect to the impugned order dated 25.03.2008 (Annexure A/1) so far as it relates to the applicant till 31.07.2008 and in case the applicant is relieved by the respondents on or after 31.07.2008, the applicant shall join the new station within the period allowed under the rules without any protest. Needless to add that in case the respondents think that the impugned order dated 25.03.2008 (Annexure A/1) is required to be modified on the basis of the representation made by the applicant vide Annexure A/5, this order will not come in their way to pass fresh order.

5. With these observations, the OA is disposed of at admission stage.


(M.L. CHAUHAN)
MEMBER (J)

AHQ