

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Jaipur, the 29<sup>th</sup> day of July, 2010.

**ORIGINAL APPLICATION No.259/2009**

CORAM :

HON'BLE MR.K.S.SUGATHAN, ADMINISTRATIVE MEMBER

1. Jitendra,  
Assistant Loco Pilot  
under Loco Foreman,  
North Western Railway,  
Ajmer.
2. Vinod Kumar Sokriwal,  
Assistant Loco Pilot  
under Loco Foreman,  
North Western Railway,  
Ajmer.
3. Manoj Kumar,  
Assistant Loco Pilot  
under Loco Foreman,  
North Western Railway,  
Ajmer.

... Applicants

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through  
General Manager,  
North Western Zone,  
North Western Railway,  
Jaipur.
2. Divisional Railway Manager,  
North Western Railway,  
Ajmer Division,  
Ajmer.
3. Divisional Mechanical Engineer,  
North Western Railway,  
Ajmer Division,  
Ajmer.

... Respondents

(By Advocate : Shri Anupam Agarwal)

**ORDER**

PER HON'BLE MR.K.S.SUGATHAN

The applicants have challenged their transfer from Ajmer to Abu Road vide order dated 24.6.2009 (Ann.A/1). The applicants were recruited as Assistant Loco Pilot and after undergoing training they were posted at Ajmer vide order dated 11.5.2009 (Ann.A/3). Subsequently, vide another order dated 19.5.2009 (Ann.A/8) their posting at Ajmer was treated as provisional.


2. The applicants have challenged their transfer to Abu Road on the ground that as per the circular of the Railway Board dated 24.12.85 candidates belonging to SC/ST should be posted nearer to their hometowns as far as practicable. The applicants belong to SC category. It is also contended by the applicants that they have been shifted to Abu Road only to accommodate some other employees who have been transferred from Abu Road to Ajmer by the same order dated 24.6.2009 (Ann.A/1).

3. The respondents have contested the prayer of the applicants. It is stated in their reply that even though there are three applicants in the OA, no application has been filed for joining together. The applicants were recruited against the vacancies in the general quota. They were initially posted at Ajmer. However, subsequently, there was a representation from the Trade Union that before the posting of the initial appointees the Railway should consider the transfer requests of the employees who are in the waiting list for such transfers. The respondents sought clarification from the headquarters on the issue raised by the Trade Union and in the meanwhile the posting of the applicants at Ajmer was treated as provisional. The Divisional Headquarter clarified, vide their letter dated 9.6.2009 (Ann.R/3), that before doing initial appointment on the basis of Railway Board's letter dated 24.12.1985 those who

are waiting for transfer should be first considered. The employees do not have a vested right for posting at a particular place. The preference to SC/ST employees are to be given as far as practicable. The applicants have been transferred because of administrative reasons. Among the employees who were transferred from Abu Road to Ajmer there are two employees belonging to SC and four belonging to OBC. The applicants are holding a transferable post. Those employees who have been posted to Ajmer from Abu Road have been waiting for their turn for a long time.

4. I have heard learned counsel for the applicant Shri C.B.Sharma and the learned counsel for the respondents Shri Anupam Agarwal. I have also perused the documents carefully.

5. There are several judgements of the Hon'ble Supreme Court which lay down the principle that transfer is an incidence of service and that Tribunal should not interfere unless there is malafide or violation of rules. It is not disputed that the applicants are holding transferable post. They are fresh appointees and on their initial posting they were given Ajmer, which is their hometown. However, when the railway authorities realized that other employees have been waiting for a long time for their transfer to Ajmer, they decided to accommodate such transfer requests. The said action of the respondents cannot be construed as illegal or arbitrary. The applicants have relied on the Circular of the Railway Board dated 24.12.1985 which stipulates that the employees belonging to SC/ST category should as far as practicable be posted nearer to their hometowns. It is to be noted that the applicants have been shifted from Ajmer to Abu Road, which is only at about 200 kms. distance. Further, Abu Road is next to next district of Ajmer. It is not contended by the applicants that they will be put to any kind of extreme hardship because of the transfer. There is no mention of any school going children whose education will be adversely affected.

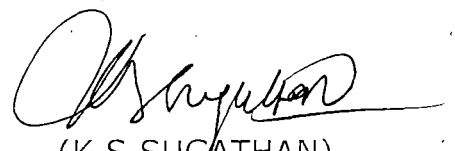


6. In a recent judgement of the Hon'ble Supreme Court in **Rajendra Singh and Others v. State of Uttar Pradesh and Others** [(2010) 1 SCC (L&S) 503] the Hon'ble Supreme Court has held that a government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. The following extract from the said judgement is relevant to the facts of this case :

"A government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the government servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires."

7. In view of the above discussion, I am of the considered opinion that there is no merit in this OA. The action of the respondents in transferring the applicants to Abu Road cannot be construed as having been done with any malafide or in violation of any rule.

8. For the reasons stated above, this OA is dismissed with no order as to costs.

  
(K.S.SUGATHAN)  
MEMBER (A)

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