

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 10th day of March, 2010

ORIGINAL APPLICATION NO. 127/2010

CORAM:

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

S.P. Kataria son of Shri Mohan Lal Kataria aged 50 years, resident of Hasanpura Jaipur (Rajasthan). At present working as Assistant Engineer Grade II, Group 'B', Northern Western Railway, Jaipur.

.....APPLICANT

(By Advocate: Mr. Ashok Joshi)

VERSUS

1. Union of India through the General Manager, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. The Director Establishment Railway Board, Rail Bhawan, New Delhi.
3. The General Manager, Northern Western Railway, Jaipur.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

The applicant has filed this OA u/s 19 of the Administrative Tribunal's Act, 1985 thereby praying for the following relief:-

"In conspectus of above state of facts, it is prayed to Hon'ble Tribunal that this Hon'ble Tribunal may very graciously be pleased to call for and examine the entire record of the case, accept and allow this Original Application, and

a) By an appropriate order and direction the Impugned transfer order dated 11.2.2010 and charge relinquishing dated 08.03.2010 qua the applicant may kindly be quashed and set aside and the respondents may kindly be directed to allow the applicant to perform his duties at his present place of posting.

b) Cost of the Original Application may kindly be awarded to the applicant."

B.L.

2. Brief facts of the case are that earlier the applicant was working in the Western Railway, Mumbai where he was transferred to North Western Railway, Jaipur on his own request on the bottom seniority vide order dated 13.02.2007 (Annexure A/5). The applicant is aggrieved by the impugned order dated 11.02.2010 whereby within a short span of time he has again been transferred by the Railway Board from North Western Railway to Eastern Railway for a period of two years with a direction that his lien & seniority will be maintained in North Western Railways. Earlier he was transferred to Jaipur on the ground that his wife was suffering from Cancer and she was operated in Mahatma Gandhi Hospital, Jodhpur where she is still required to undergo chemotherapy.

3. Learned counsel for the applicant contended that there are 95 Assistant Engineers in this zone of Railway Board but they have adopted pick & choose method and had transferred the applicant without taking into consideration the fact that his wife is required to undergo regular chemotherapy at Jodhpur. He has also contended that as per RBE No. 336/85 ST/SC employees should be transferred very rarely and for very strong reasons.

4. I have heard the learned counsel for the applicant and had also perused the record of the case. I find that the applicant stand relieved from the present posting. I also find that the applicant has not exhausted the departmental remedy. The Hon'ble Supreme Court in the case of **Mrs. Shilpi Bose & Others vs. State of Bihar & Others**,

AIR 1991 SC 532, has held that even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead effected party should approach the higher authorities in the Department. Similarly also, the Hon'ble Supreme Court in the case of the **Union of India & Others vs. S.L. Abbas**, AIR 1993 SC 244, held that if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration.

5. In view of facts & circumstances of this case, the applicant is directed to file self contained representation before the Railway Board within a period of 15 days from the date of receipt of a copy of this order. In case the representation is filed within the aforesaid period, in that eventuality, the Railway Board is directed to decide the representation of the applicant by passing a reasoned & speaking order within a period of two months from the date of receipt of the representation. In case the applicant is aggrieved by the order to be passed by the Railway Board, the applicant is at liberty to challenge the order of the Railway Board by filing another OA.

6. In the result, the OA is disposed of at admission stage with no order as to costs.


(B.L. KHATRI)
MEMBER (A)

AHQ