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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 05.01.2012

OA No. 492/2011 with MA No. 362/2011

Mr. S. Shrivastava, counsel for applicant.
Mr. Tanveer Ahmed, counsel for respondents.

Rejoinder has been filed by the applicant. As prayed by the learned counsel for the applicant, put up the matter on 10.01.2012. I.R. to continue till the next date

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

10-01-2012 [OA No. 492/2011 with
MA No. 362/2011]

Mr. S. Shrivastava, counsel for applicant.
Mr. Tanveer Ahmed, counsel for respondents.

Heard.

The O.A. and M.A. are disposed of by a separate order on the separate sheets for the reasons recorded therein.

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

Rejoinder filed
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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH**

Jaipur, this the 10th day of January, 2012

Original Application No.492/2011

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)

**Abdul Latif Shekh
s/o Shri Gaffar Baksh
r/o 01/08 RHB, Nehru Nagar,
Senthi, Chittorgarh,
Presently working as JE II,
Mandalgarh under Sr. DSTE (E), Kota**

.. Applicant

(By Advocate: Shri S.Shrivastava)

Versus

- 1. Union of India
Through General Manager,
West Central Railway,
Indra Market,
Jabalpur.**
- 2. Divisional Railway Manager,
Kota Division of West Central Railway,
Kota.**
- 3. Senior D.S.T.E. (E),
Kota Division,
Kota.**

.. Respondents

(By Advocate: Shri Tanveer Ahmed)

ORDER (ORAL)

The impugned transfer order dated 19.10.2011 (Ann.A/1) is under challenge in this OA on the ground that the transfer is totally discriminatory and arbitrary and dehors the guidelines issued by the Railway Board in respect of cases where husband and wife both are in service either in Central Government or either one is in State Government. Also challenged on the ground that no administrative ground prevail for transferring the applicant at such a distant place but the transfer is made just to accommodate others and this being a clear breach of Article 14 and 16 of the Constitution of India. Therefore, the transfer order deserves to be quashed and set-aside.

2. Alternatively, the applicant has prayed that he may be adjusted at any place nearer to Chittorgarh as per the guidelines and posts are available in Kota where the applicant can be adjusted.

3. The applicant placed the guidelines issued by the Ministry of Railways (Railway Board) as Ann. A/4 with regard to posting of husband and wife at the same station and referred to sub-para e. of para 3, which is in the following terms:-

“e. Where one of the spouses is a railway servant (all India service) and other is working in a central/state/Public Sector Undertaking/Autonomous Body/Private Sector. The railway servant may apply to the controlling Authority for



a posting of the railway servant anhe place of posting of the spouse he/she may be posted to a place closer to the place of posting of the spouse. If this also is not possible application from the railway servant for posting of the spouse who is working in the Central/State/Public Sector Undertaking may be forwarded to the controlling authority of the spouse of his/her posting at or near the place of the railway servant."

4. After referring the policy the learned counsel appearing for the applicant demonstrated before us that the respondents have violated the policy as the wife of the applicant is working in the service of the State Government as Staff Nurse Gr.I at Chittorgarh and the transferred place is far away from Chittorgarh, therefore, his case deserves to be considered by the respondents.

5. Per contra, the respondents controverted the facts and submitted that the Kota C.O.R. Section was earlier using over head wire communication for train control which has now been upgraded to O.F.C. Communication., an advanced technology requiring effective monitoring by the supervisor. The service with security of passengers and with punctuality of time is the foremost concern of the Railway and it can not be allowed to be compromised and anything which becomes a hurdle in subserving this purpose is required to be removed or replaced in the administrative exigency, because due to fault of the single person thousands are to suffer and if one is not capable of

performing the duties as required and despite of several penalties and opportunities when the applicant did not understand the sensitivity of the job in the present section, then there was no option except to post him at the place where the section is comparatively less sensitive and protection are available. Keeping conduct of the applicant who is time and again leaving the headquarter without permission, as such, the transfer is made in the public interest. The learned counsel appearing for the respondents placed reliance on the judgment in the case of Union of India and Ors. vs. S.L.Abbas, reported in AIR 1993 SC 2444 wherein the Hon'ble Apex Court observed that the Tribunal has no jurisdiction to interfere if the transfer is made by the competent authority in the public interest.

6. Having considered the rival submissions of the respective parties and upon careful perusal of the policy laid down for adjusting husband and wife at the same station and having considered the reply submitted on behalf of the respondents, it appears that the applicant is negligent in performing the duty, although he has been rewarded for performing good duties at one point of time, but subsequently he was negligent in leaving the headquarter without prior permission. As submitted by the respondents that the Kota COR division has been upgraded to OFC Communication and the applicant did not care to understand the sensitivity of the job, as such, the transfer order



is passed in public interest and in view of the ratio decided by the Apex Court, such transfer should not be interfered with. Consequently, I do not want to interfere with the impugned transfer order and the OA being bereft of merit is hereby dismissed with no order as to costs. However, it is open for the applicant to represent before the respondents to adjust him near Chittorgarh where his wife is posted as Staff Nurse.

7. The interim stay already granted on 25.10.2011 stands vacated and the MA No.362/2011 for vacation of stay order, is accordingly disposed of.


(JUSTICE K.S.RATHORE)

Judl. Member

R/