

15

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 28.02.2012

OA No. 506/2011 with MA No. 347/2011 &
MA No. 01/2012

Mr. P.N. Jatti, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents.

Heard learned counsel for the parties.

O.A. & MAs are disposed of by a separate order on the
separate sheets for the reasons recorded therein.


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

Kumawat



CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 506/2011
WITH
MISC. APPLICATION NO. 347/2011
&
MISC. APPLICATION NO. 01/2012**

DATE OF ORDER: 28.02.2012

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER

Akhilendra Kumar Singh S/o late Shri Chitra Dev Singh, by caste Rajput, aged about 42 years, R/o Housing Board Colony, Nasirabad, presently working as Senior Booking Clerk, Abu Road, under Ajmer Dn., North Western Railway, Ajmer.

...Applicant

Mr. P.N. Jatti, counsel for applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Ajmer.
3. Divisional Railway Manager (Shapna and Vitya), North Western Railway, Ajmer.

...Respondents

Mr. Anupam Agarwal, counsel for respondents.

ORDER (ORAL)

The present Original Application has been preferred by the applicant against the impugned transfer order dated 18.10.2011 (Annexure A/1), by which the applicant has been transferred from Ajmer Division to Bikaner Division on administrative grounds on the same pay & grade pay.

2. The applicant challenges the transfer order on the ground that the same has been passed in the mid-academic session and is followed by frequent transfer, which effects the education of the children and disturbance in pulling on the family life. The applicant further submits that he was earlier transferred from

Nasirabad to Sirohi Road, from Sirohi Road to Bhilwara, from Bhilwara to Gulabpura and Gulabpura to Abu Road.

3. The transfer order has been challenged by the applicant not only on the ground of frequent transfer but also on the ground that children of the applicant are studying at Nasirabad.

4. This is the second round of litigation. Earlier the applicant has preferred the Original Application bearing No. 411/2011 challenging the transfer order dated 04.07.2011 whereby the applicant was transferred from Gulabpura to Abu Road, which was disposed of vide order dated 06.09.2011 directing the respondents to decide the representations of the applicant by passing a reasoned and speaking order within a period of three months from the date of receipt of a copy of that order. Liberty was also granted to the applicant to file substantive Original Application, if any prejudicial order is passed against his interest. Pursuant to the directions issued by this Bench of the Tribunal, the applicant has represented before the respondents vide Annexure A/9 dated 09.09.2011, and the same has been decided by the respondents by speaking order Annexure R/3 dated 11.11.2011. The order dated 11.11.2011 (Annexure R/3) passed by the respondents has not been challenged by the applicant, but the transfer order dated 18.10.2011 (Annexure A/1), by which he has been transferred from Ajmer Division to Bikaner Division is challenged by way of filing the present Original Application.

5. Learned counsel appearing for the respondents submitted that the applicant was found indulged in generating high value



tickets on stock of low value tickets by manipulating printer and issuing mismatch tickets which is fraud with the railways. The Railway Board by order dated 02.11.1998 (Annexure R/1) has decided that staff in mass contact areas detected to be indulged in malpractice should be transferred to inter divisional basis. Thus, the applicant has rightly been transferred from Ajmer Division to Bikaner Division. With regard to the frequent transfer, it is stated by the respondents that the transfer from Sirohi Road to Bhilwara and from Bhilwara to Gulabpura was made at his own request. The respondents further submit that during the vigilance checking in the month of March, 2011 at Bhilwara, the applicant was found to have committed fraud amounting to Rs. 2,72,053/- with the railways. He was, therefore, suspended. However, the suspension order was revoked and he was reinstated by posting him on the post of face to face inquiry at Abu Road station being a post of non-cash dealing by order dated 04.07.2011 (Annex. A/7), and this transfer order dated 04.07.2011 has been challenged by the applicant by way of filing the OA No. 411/2011, which was disposed of vide order dated 06.09.2011 with the direction to decide the representation dated 05.07.2011 and 01.08.2011 within a period of 3 months from the date of receipt of a copy of that order and the same has been decided vide order dated 11.11.2011 (Annex. R/3) by passing a reasoned and speaking order. Since the transfer order dated 18.10.2011 (Annex. A/1), which is under challenge, is issued as per the Railway Board policy/directives vide Annexure R/1, RBE No. 251/98, the same cannot be cancelled only on the ground of submission of study of the children, as held by the Hon'ble High Court, Madras Bench in



the case of Palnisamy Vs. General Manager, Tamil Nadu State Transport Corporation Ltd., reported in (2006) (6) SLR-155, in which the Hon'ble High Court has held as under:

"Almost every one has children and if such kind of request is entertained, no transfer order can ever be passed. Every transfer order causes some hardship, but if one wants to remain in service, he has to obey the transfer order as a transfer order is purely administrative order and is not a punishment. Transfer is an ordinary exigency of service."

Similarly, in the other matter of L.B. Shahdapur vs. Union of India reported in 1999 (2) ATJ-582) – the C.A.T. Mumbai Bench has held that personal difficulties on account of transfer are to be pressed before the authorities. There is no ground for a court or tribunal to interfere with an order of transfer.

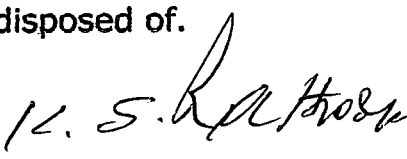
6. Having heard the rival submissions of the respective parties and upon careful perusal of the material available on record and the judgments referred by the respective parties, it appears that the earlier OA No. 411/2011, which has been filed by the applicant, was filed against the transfer order dated 04.07.2011 by which the applicant was transferred from Gulabpura to Abu Road and now in this Original Application, the applicant is challenging the transfer order dated 18.10.2011 (Annex. A/1), by which he has been transferred from Abu Road (Ajmer Division) to Bikaner Division, and admittedly, the children of the applicant are studying at Nasirabad, neither at Gulabpura nor at Abu Road, and further the applicant was aggrieved of transferring him from Gulabpura to Abu Road and the same has been challenged, and since the respondents in pursuance to the RBE No. 251/98 dated 02.11.1998 (Annex. R/1), have transferred the applicant to inter-divisional level i.e. from (Abu



Road) Ajmer Division to Bikaner Division as he committed fraud amounting to Rs. 2,72,053/- with the railways, now by way of filing the present Original Application, the applicant wants to remain at Abu Road.

7. Be that as it may, having considered the judgments referred by the respondents and the applicant and also carefully perused the RBE circular No. 251/98 dated 02.11.1998 (Annex. R/1), I am of the considered view that looking to the conduct of the applicant and the administrative exigency, the respondents have rightly passed the transfer order dated 18.10.2011 (Annex. A/1) and transferred the applicant from Ajmer Division to Bikaner Division. The applicant has utterly failed to convince this Tribunal that the impugned transfer order is passed maliciously and has also failed to demonstrate before this Tribunal that the impugned transfer order has been passed malafidely and with the ulterior motive. Thus, I find no illegality in the transfer order dated 18.10.2011 (Annex. A/1) and the same requires no interference by this Tribunal. Accordingly, the Original Application being bereft of merit fails and is hereby dismissed with no order as to costs. Consequently, the interim order dated 02.11.2011 passed by this Bench of the Tribunal is vacated forthwith.

8. In view of the order passed in the Original Application, no orders are required to be passed in the Misc. Applications, and as such the same stand disposed of.


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