

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA No. 060/00458/2014 Date of decision- 19.02.2015.

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

Mahesh Narayan Dabla, Station Superintendent, Railway Station (Northern Railway), Fazilka (Punjab).

...APPLICANT

BY ADVOCATE : Sh. N.P. Mittal.

VERSUS

1. Union of India through General Manager (P), Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Ferozepur Division, Ferozepur Cantt.
3. Senior Divisional Operating Manager, Northern Railway, Ferozepur Division, Ferozepur Cantt.
4. Senior Divisional Personnel Officer, Northern Railway, Ferozepur Division, Ferozepur Cantt.
5. Ashok Setia, Station Superintendent, Railway Station (Northern Railway), Jalalabad.

...RESPONDENTS

BY ADVOCATE: Sh. Lakhinder Bir Singh, counsel for respondent no. 1 to 4.
Sh. Amith Kaith, proxy counsel for respondent no. 5.

ORDER (ORAL)

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The present Original Application is directed against the order dated 20.05.2014 vide which the applicant has been transferred from Railway Station, Fazilka to Railway Station, Jalalabad vis-a-vis respondent no. 5.

2. When the matter came up for preliminary hearing on 27.05.2014, this court whiling issuing notice of motion, passed the following order:-

"1. Heard learned counsel for the applicant who contends, inter alia, that the applicant was transferred to jalalabad in the year 2010 where he stayed up to March, 2013 when he was transferred to Fajilka. He joined at Fajilka on 10.03.2013 where he is presently working. Now again, after less than 13 months, the applicant has been transferred to jalalabad vide order dated 20.05.2014 on administrative grounds whereas respondent no. 5 who was earlier posted at Jalalabad has now been transferred to Fajilka. Learned counsel contends that the impugned order transfer is outcome of colourable exercise of power only to accommodate respondent no. 5 and there are no administrative reasons behind this transfer.

2. Issue notice to the respondents.

3. Mr. Yatain Gupta, learned counsel appears vice Mr. Lakhinder Singh, learned Sr. Standing Counsel and accepts notice. He seeks and is granted time to have instructions/file pleadings.

4. List on 12.06.2014.

5. In the meantime, the operation of the impugned order shall remain stayed."

3. Thus, operation of impugned order was stayed. Thereafter, pleadings were exchanged between the learned counsel for the

parties. The respondents were also directed to bring the relevant record where the case of the applicant was considered, to find out the administrative reasons in transferring him from Fazilka to Jalalabad in less than 13 months period. Though, the applicant has challenged the impugned order, on other grounds also but the main plea taken by Sh. N.P. Mittal, learned counsel for the applicant is that impugned order, though, itself mentions that he has been transferred on administrative ground but those grounds have not been spelt out either in the order or in the reply. The respondents have also failed to produce the record where the competent authority recorded the administrative reasons to shift the applicant. It is alleged by the learned counsel for the applicant that it is only to accommodate respondent' no. 5 that the applicant has been transferred to Jalalabad where earlier the applicant was posted. He submitted his representation in Jan, 2013 for transferring him from Jalalabad to Fazilaka and it is on his request only, that the respondents, after taking a conscious decision, passed the order dated 08.03.2013 transferring him to Fazilka and he joined at that station on 10.03.2013. The impugned transfer order is also termed as mutual transfer as respondent no. 5 had also submitted his representation to transfer him from Jalalabad to Fazilaka and his request was also accepted for which reason the applicant has been transferred vide impugned order.

4. The respondent no. 5 has also filed a detailed written statement wherein he has contested the claim of the applicant. The official respondents no. 1 to 4 filed a short written statement wherein they have submitted that there is no violation of any provision of the policy governing transfer. It is also denied that transfer of applicant from Fazilika to Jalalabad is on periodical transfer. With regard to other averments, the respondents have not made any contradiction.

5. Today, when the matter was taken up for hearing, Sh. Lakhinder Bir Singh, learned counsel for official respondents very fairly submitted that he is not in receipt of any record which can support the case of the respondents, where before passing the impugned order of transfer, the competent authority has recorded any finding or reasons to suggest that transfer of the applicant is on administrative grounds. He also submitted that when he had asked for information/record from the respondents as directed by this Court, he received a communication from the respondents that there is no such record with the department.

6. Considering the above statement made by the official respondents, we are left with no other option but to accept the averment made in the O.A that transfer is not on administrative grounds but it was made only to accommodate respondent no. 5, which we have discussed above that the applicant joined the Fazilika on 10.03.2013 and within less than 13 months, they have transferred

him to Jalalabad without any reasons. We are left with no other option but to quash the impugned order having not been passed in public interest or on administrative reasons. The respondents have failed to show any record where authority, before passing the impugned order, recorded any reason much less administrative reason for transferring the applicant. It is settled proposition that court cannot interfere in the matter of transfer unless it is alleged and proved that transfer is out come of vindictiveness of respondent department but in that case respondents have failed to show any administrative reasons on public interest.

7. In this case, the respondents have not able to support the impugned order by showing any administrative reason as has already been recorded in the shape of statement above, therefore, we accept the present O.A and accordingly, impugned order is quashed and set aside.

8. No costs.

Uday Kumar Varma
(UDAY KUMAR VARMA)
MEMBER (A)

Sanjeev Kaushik
(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 19.02.2015

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