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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA021/00235/2017

Date of C.A.V: 04.04.2017

Date of order: 07.04.2017

Between:

Munna Raj Kapur, S/o. Sri Rameshwar Pandit,
Aged 32 years, Occ: Sr. Asst. Loco Pilot,
O/o. The Chief Crew Controller,
South Central Railway, Secunderabad Division,
Ramagundam RS.

... Applicant

A N D

1. Union of India, Rep. by
The General Manager,
Rail Nilayam, 3rd Floor,
South Central Railway, Secunderabad.
2. The Divisional Railway Manager,
South Central Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
3. The Senior Divisional Electrical Engineer (TRSO),
South Central Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
4. The Divisional Personnel Officer,
South Central Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
5. Vishnu Chaitanya H.K.,
The Assistant Divisional Electrical Engineer (TRSO),
South Central Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
6. The Chief Crew Controller,
South Central Railway, Ramagundam RS.

... Respondents

Counsel for the applicant : Mr. K.R.K.V. Prasad, Advocate
Counsel for the respondents : Mrs.A.P. Lakshmi, SC for Railways

C O R A M:

THE HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
THE HON'BLE MRS. RANJANA CHOWDHARY, MEMBER (A)

V. Kumar



ORDER
[Per Hon'ble Mr. V. Ajay Kumar, Member (J)]

The applicant, a Senior Assistant Loco Pilot in the Respondents South Central Railway and working at Ramagundam filed the OA questioning the impugned Annexure A-1 Transfer Order dated 16.03.2017 in transferring him to Bhadrachalam Road and the consequential relief order dated 26.03.2017.

2. Heard Mr. K.R.K.V. Prasad, learned Counsel for the applicant and Mrs. A.P. Lakshmi, learned Standing Counsel for the respondents and perused the pleadings on record.

3. In support of the OA averments, the applicant raised the following grounds:

(i) The impugned transfer order is violative of the Annexure A-7 transfer guidelines of the respondent Railways. As per the said guidelines, a Placement Committee is required to be constituted with the designated officials as indicated therein and as per the said Committee's recommendations only, the competent authority can act. In the applicant's case, no such Committee was constituted and no recommendation for transferring the applicant was made by the said Committee.

(ii) The impugned transfer order is punitive in nature. On 17/18-02-2017, the applicant was detailed to work in the goods train from Ramagundam to Bellampally. After going as Pilot from Bellampally to Mandamarri on 18.02.2017, the applicant fell sick and requested the on-duty Traction Loco Controller working in the office of the 2nd respondent to arrange relief to him to go back to his Headquarters i.e. Ramagundam. The said version of the applicant that he is sick was not believed and after much persuasion, he was advised to proceed to

V. Ajay Kumar



Bellampally. By the time the applicant approached at 5.00 PM on 18.02.2017, the Railway Doctor was not available and since the applicant's condition was critical, he has not responded to the calls given by his colleagues who were present in the Running Room. The applicant was admitted in the hospital and was given treatment for five days from 19.02.2017 to 23.02.2017. In this connection, a Memorandum dated 25.02.2017 with a vague imputation was issued to the applicant and in connection with the said incident, in order to punish the applicant, the respondents issued the transfer order.

4. *Per contra*, learned counsel for the respondents while producing a proceeding dated 31.03.2017 submitted that the respondents fully complied with the Annexure A-7 guidelines before issuing the impugned transfer order. A duly constituted Committee considered the case of the applicant and recommended for his transfer to Bhadrachalam Road on administrative grounds and hence, there is no illegality in the impugned transfer order.

5. Learned counsel for the respondents further submits that in connection with the omissions and commissions of the applicant, Annexure A-2 Memorandum dated 25.02.2017 was issued and the same is pending against him and the pendency of the same has no relevancy with the impugned transfer of the applicant as the same was recommended by a duly constituted Committee as per the directions of the Hon'ble Apex Court culminated into the guidelines issued vide Annexure A-7. Accordingly, learned counsel prays for dismissal of the OA.

V. J. Kumar

6. In **Rajendra Singh & Others Vs. State of Uttar Pradesh & Others** [2009

(15) SCC 178], the Hon'ble Apex Court has held under:



*"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 as held in **State of U.P. Vs. Gobardhan Lal**, [(2004) 11 SCC 402].*

*The courts are always reluctant in interfering with the transfer of an employee unless such transfer is vitiated by violation of some statutory provisions or suffers from mala fides as held in **Shilpi Bose Vs. State of Bihar**, [AIR 1991 SC 532].*

*"....The scope of judicial review in matters of transfer of a government servant to an equivalent post without any adverse consequence on the service or career prospects is very limited being confined only to the grounds of mala fides and violation of any specific provision..." as held in **NK Singh Vs. Union of India**, [(1994) 6 SCC 98]*

7. In view of the proceedings dated 31.03.2017 and it is shown that the impugned transfer order was the result of the recommendations of the duly constituted Committee in terms of the Annexure A-7 guidelines, we reject the contention of the applicant on this ground.

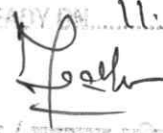
8. It is to be seen that transfer of every employee against whom disciplinary proceedings are initiated or contemplated cannot be termed as punitive in nature. In the present case, in view of the specific recommendations of the duly constituted Committee, the impugned transfer cannot be termed as punitive, as contended by the learned counsel for the applicant.

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9. The judgment of the Hon'ble High Court of Andhra Pradesh in **WP No. 34544 of 2015** in **A. Ravinder Reddy & Others Vs. Telangana State Road Transport Corporation & Others**, dated 28.10.2015 on which the learned counsel for the applicant placed reliance has no application to the facts of the present case.

10. In the circumstances and for the aforesaid reasons, we do not find any merit in the O.A. and accordingly, the same is dismissed. No costs.

प्रमाणित प्रत
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER..... **OA-235/2017**
निर्णय का तारीख
DATE OF JUDGEMENT..... **7.4.2017**
प्रति कोपी तैयार किया गया दिन
COPY MADE READY ON..... **11.4.2017**

अनुसूचक अधिकारी / न्यायालय अधिकारी
Section Officer / Court Officer
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ/Hyderabad Bench

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