
(2023) 08 CAT CK 0004

In the Central Administrative Tribunal

Case No : Original Application No. 180, 00414 Of 2020

Akhil N.S

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 08-08-2023

Acts Referred:

Citation : (2023) 08 CAT CK 0004

Hon'ble Judges : Sunil Thomas, Member (J)

Bench : Single Bench

Advocate : T.C. Govindaswamy, O.M. Shalina

Final Decision : Dismissed

Judgement

Sunil Thomas, Member (J)

1. The applicant is employed as a Pharmacist under the respondent Railways. It is stated that a system of registration of requests for transfer to be considered as and when vacancies arise in the order of priority, was in vogue in the Railways, by virtue of Annexure A3 order dated 1.10.1971. The applicant was originally posted at Perambur, Chennai in 2008. He requested for a transfer to Kollam. However, he was transferred to Nagercoil. He raised a complaint pursuant to which his transfer to Nagercoil was cancelled and was posted at Trivandrum, Pettah. While so, the applicant submitted a request for transfer to Kollam on 20.6.2016. The application was pending. The 5th respondent who was working at Nagercoil had requested for transfer to Railway Hospital, Trivandrum, Pettah on 20.6.2016 as evidenced by Annexure A2 provisional list of pending request. By Annexure A1 dated 2.7.2020, the 5th respondent was posted at Kollam. Applicant submitted Annexure A4 representation raising his grievance against non-consideration of his request for transfer to Kollam and the transfer of the 5th respondent to Kollam. Since there was no response he filed OA No. 286 of 2020 challenging Annexure A1 to the extent of transferring the 5th respondent to Kollam. The Tribunal passed an order by which the Railways were directed to

pass a reasoned order on a representation to be submitted by the applicant and till then to maintain status quo. Annexure A6 representation was accordingly submitted which was rejected by Annexure A7. Aggrieved by Annexure A1 to the extent of transferring the 5th respondent to Kollam overlooking applicant and challenging Annexure A7, the applicant has approached this Tribunal seeking reliefs.

2. Essentially the applicant is relying on Annexure A2 provisional list of pending requests of 2018 to contend that the applicant as well as the 5th respondent had requested for transfer on the same day on 20.6.2016. It was further contended that as per Annexure A2, 5th respondent had sought transfer to Trivandrum and not to Kollam. However, overlooking his claim, the 5th respondent was preferred.

3. On the other hand, the stand taken by the respondents as evident from the reply statement as well as Annexure A7 was that the applicant had submitted a request on 28.3.2016. The 5th respondent had submitted his request for transfer on 19.3.2016. He had sought transfer to Trivandrum, Petta or Kollam. Since the 5th respondent was senior as he had submitted his application much earlier than of the applicant, he was placed above in priority. However, by mistake, in Annexure A2, the request of the 5th respondent to Kollam was not shown in the priority list of 2018. This defect was rectified and shown in the provisional list of 2019. While so, a vacancy arose at Kollam due to retirement of one person, on 31.5.2020. Since the 5th respondent had requested for transfer to Kollam, he was posted there by Annexure A1 order. There was no breach of any Rule or Regulation, was the contention.

4. The 5th respondent had also filed a detailed reply statement contending the same stand. It is true that the 5th respondent had requested to grant him transfer to Trivandrum, Pettah or Kollam. According to the 5th respondent, he had submitted the request for transfer on 19.3.2016. A copy of it was produced as Annexure R5/1. It bears an endorsement by an officer accepting the request. Copy of the original application was produced by the Railways as Annexure R3. According to the respondents, in Annexure R5/2 communication dated 10.6.2016, the request of respondent No. 5 was shown as Trivandrum or Quilon. This substantiates the case of the respondents that the 5th respondent had sought transfer to Kollam also. On finding that there was an omission of Kollam in Annexure A2, the 5th respondent had submitted requests dated 26.2.2019 and 20.6.2019 for correction, copies of which were produced as Annexures R5/3 and R5/4. By Annexure R5/6 request dated 12.6.2020 of the 5th respondent, the applicant made a request for posting at Kollam, since a vacancy had arisen.

5. The Railways had produced the application submitted by the applicant herein dated 28.3.2016 as Annexure R1. The provisional list of the year 2019 supporting the case of the respondents was produced as Annexure R4.

6. As indicated earlier, the applicant is essentially relying on Annexure A2 to contend that the applicant and the 5th respondent had submitted applications for

request on the same date and also to contend that 5th respondent had sought for transfer to Trivandrum alone. The materials placed by the respondents and discussed above, clearly show that there was a mistake in Annexure A2 by which the date of submission of application was shown wrongly as well as the choice made by the 5th respondent.

Evidently, the application submitted by the 5th respondent was prior in time and necessarily his claim had to be considered first. Accordingly, when the vacancy arose at Kollam the first choice naturally went to the 5th respondent.

7. Evaluating the entire materials on this perspective, I find that no ground has been made by the applicant for interference. There is no illegality or violation of any Rules or norms in granting transfer to the 5th respondent to Kollam. The Original Application fails and is accordingly, dismissed. No costs.