

**(2018) 11 CAT CK 0092**  
**In the Central Administrative Tribunal**  
**Case No : Original Application No. 657 Of 2018**

C.S. Kataria

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

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**Date of Decision :** 19-11-2018

**Acts Referred:**

**Citation :** (2018) 11 CAT CK 0092

**Hon'ble Judges :** V. Ajay Kumar, J;A.K. Bishnoi, Member (A)

**Bench :** Division Bench

**Advocate :** Yogesh Sharma, Shailendra Tiwary

**Final Decision :** Allowed

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## Judgement

A.K. Bishnoi, Member (A)

1. The applicant has filed the present OA seeking the following reliefs:-

"(i) That the Hon"ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 28.12.2017 (Annexure A/1) and consequently, pass an order of directing the respondents to consider and to post the applicant on light duty, without involving train operation and safety of the public.

(ii) That the Hon"ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 7/6/17 and consequently, pass an order directing the respondents to post the applicant at Delhi Jn. Railway Station or within Delhi Area near Railway Hospital to consider the medical problem of the applicant.

(iii) Any other relief which the Hon"ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation".

2. The case of the applicant is that he was initially appointed to the post of Assistant Station Master (ASM) on 23.01.1988 and subsequently promoted to the

post of Dy. Station Superintendent. On 27.06.2010, he suffered a serious heart attack. Despite the recommendation of Chief Medical Superintendent to assign him light duties, he was directed to perform the duties of Station Superintendent at Delhi Jn. Railway Station. Subsequently, he was transferred to Tilak Bridge Railway Station and in February 2016, he again suffered a massive heart attack.

2.1 On 14.02.2017, he made a request to the competent authority that he may be given light duty and also requested for posting at Delhi Jn. Railway Station.

2.2 Respondents vide impugned order dated 07.06.2017 transferred him to Khekra Railway Station in Distt. Bagpat (UP), which is a remote area and no emergency facility, is available. Against the said order, the applicant submitted a detailed representation dated 10.07.2017 to post him at Delhi or in Delhi area on medical ground.

2.3 Thereafter, he filed an OA No. 3848/2017 before this Tribunal in which through order dated 03.11.2017, it was directed that the representation of the applicant be considered and a speaking order be passed by the respondents.

2.4 Respondents passed the impugned order dated 29.12.2017 in which they admitted the medical problem of the applicant but directed him to first report to the place of posting under transfer order.

3. In the reply the respondents have averred that the applicant was referred for medical examination to its medical department where he was declared fit to work for the post of Station Master. Considering the safety of passengers and Railways, the applicant was transferred to Khekra Railway Station, which is a small station with a few number of trains being handled and situated near Delhi main hospital. It was also decided that immediately after reporting at Khekra Station, the applicant should be directed to Chief Medical Superintendent, Delhi for a special medical examination. It has also been stated that the applicant has concealed many relevant facts. However, the respondents have not elaborated any further.

4. Heard the learned counsels for the applicant and the respondents.

5. The representation of the applicant was disposed of vide order dated 29.12.2017, a relevant portion of the said order is reproduced below:-

"2.....On 27.03.17, a report was submitted by SS/TKJ to the administration vide letter no. 17/SS/TKJ/2017, dt. 27.03.17 that applicant has been taking picking up (learning) from 18.02.17 till 27.03.17 and continuing for 45 days as against 5 days permitted as per Operating Manual. In response to the above report, Applicant replied to SS incharge/TKJ vide letter No. Nil, Dt.30.03.17 that "mass number of coaching trains passed from TKJ to & fro NDLS, HNKM & ?B" Panel having multi-directional traffic and considering his health position, he could not memorize the whole numbers of train with direction wise and originating/destination point and requested for duty of panel operator at TKJ". It is important to highlight here that TKJ station deals with average 300 Coaching trains/Day

and 30-35 freight trains/Day which is very heavy traffic of Passengers and Goods. The deficiency acknowledgment by Applicant that- non-remembering of trains dealt at station also not having idea of direction of trains operation. On examining the report of SS in-charge/TKJ, Applicant's reply Dt. 30/03/17, recommendation of Safety officer of operating department that employee is not fit for working on busy station and he may be transferred to light section or branch line where less traffic is dealt with, medical condition of the applicant, keeping all above, administration took a considered decision to transfer the Applicant to Khekra (KEX) Railway Station 2nd station on Delhi Sahadra (DSA)-Shamli (SMQL) section where number trains dealt at this station is very less (average 24 coaching trains/day and almost nil freight trains on daily basis). It opined that Applicant at KEX station i.e, only 29 kms and from where he can easily commute to DLI main hospital or NRCH, Delhi.

3. Applicant in his representation has requested to be posted at DLI Main station on medical ground. It is important to highlight that DLI Main is equally busy station like TKJ and here primarily coaching traffic is dealt. DLI Main deals with average 255 Coaching trains per day and average 20 goods trains per day. Here coaching trains are also received from multiple directions. In the background of the report and applicant submission vide letter Dt. 30.03.17 that he is not able to memorise the whole number of trains direction wise and originating/destinating point and also mentioned in his representation that handling of passenger carrying train is job of extra care and in case of any mishappening who would be responsible, it would not be appropriate in the interest of safety and operation to consider Applicant posting at DLI Main Station. Besides his working at DLI Main Station was not satisfactory in his earlier posting as discussed in earlier Paras.

4. On examination, in view of the discussion and circumstances discussed in above Paras, his posting at KEX station which is one of nearest station where train handling is very less and at the same time near to DLI Main station from where he can easily get medical facility from DLI Main Hospital or NRCH, Delhi is stand good. However, immediately on reporting at KEX, he should be directed to CMS/Delhi for special Medical, since, applicant has mentioned in his representation at Annex-2 of the OA that on account of his medical condition- he be given lighter duty avoiding train passing and further added that handling of passenger carrying trains is a job of extra care and in case of any mishappending who would be responsible. Therefore Applicant is advised to report immediately at KEX station".

(Emphasis supplied).

6. From a perusal of the papers on record as also from the counter filed by the respondents, it can be seen that the respondents have not disputed the applicant's medical condition which requires that he should be given a lighter assignment. While disposing of the representation also, it has been clearly stated that the medical condition of the applicant is the factor on account of which he is being posted to Khekra Railway Station where the workload is much less than in

his present assignment. It has also been directed by the respondents that immediately on reporting at KEX station, he should be directed to CMS/Delhi for special medical as contained in the last para of the portion quoted above.

7. This is a matter which not only concerns the welfare of the applicant, who is admittedly suffering from a serious medical condition requiring posting with lighter responsibility commensurate with his physical condition, but also involves the larger question of passenger safety. The respondents have themselves directed that the applicant should undergo a special medical examination immediately on reporting at KEX station. It defies logic why he should first be transferred, asked to report at the new place of posting and then to undergo a medical examination. In the fitness of things where there is an admitted and genuine issue regarding the medical condition of the applicant, a medical examination should have been carried out first and depending upon the outcome further course of action should have been decided.

8. The respondents, while passing the order dated 29.12.2017 in compliance of the orders of this Tribunal dated 03.11.2017, rejecting the representation of the applicant have not only ignored the principle of equity and fair play with respect to the applicant but have also disregarded the question of passenger safety, which as a responsible organization it was incumbent upon them to do so. We also find the order inherently inconsistent and self-contradictory since on the one hand the respondents have acknowledged the need for the applicant to be given a lighter assignment in view of his medical condition but on the other hand they have posted him as Deputy Station Superintendent which is a position of considerable responsibility.

9. In the circumstances, for the reasons stated above, we find that the order dated 29.12.2017, disposing of the representation of the applicant, is not justified or a valid speaking order and is liable to be set aside. In conjunction and as a corollary to this, the transfer order of the applicant dated 07.06.2017 is also found to be defective on the same grounds.

10. Under the circumstances, the OA is allowed and the impugned orders dated 07.06.2017 and 28.12.2017 are quashed. The respondents are directed to get a comprehensive medical examination done of the applicant and taking into account its outcome, factoring in his medical history and giving serious consideration to the issue of passenger safety, objectively decide on the applicant's plea for being given a light assignment at a place with necessary medical facilities. This shall be done within four weeks from the date of receipt of a certified copy of this order through a self contained speaking order. Till such time, status quo shall be maintained qua the applicant. No costs.