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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2122 of 2002

New Delhi, this the 13th day of May, 2004

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Shri Ashok Kumar Sabharwal
Head Parcel Clerk,
Railway Station,
New Delhi.

...Applicant

By Advocate: Shri B.S. Mainee.

Versus

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Chief Commercial Manager,
Northern Railway,
Baroda House,
New Delhi.

3. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

..Respondents

(By Advocate: Shri Rajinder Khatter)

O R D E R(ORAL)

The applicant in this OA has assailed an order of transfer Annexure A-1.

2. In the grounds to assail the same it has been mentioned that the applicant has been transferred from Delhi division to FZR division and it is only on the basis of a vigilance, a check had been carried out and applicant was found guilty and was punished vide order dated 10.5.2001 page 29 Annexure A-2. Thereafter applicant had preferred an appeal, which too was rejected. However, when the applicant filed an OA against the said order which was allowed vide judgment dated 28.7.2003 passed in OA 1973 of 2002 wherein the punishment awarded to the applicant had been quashed.

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Hence, the applicant submitted that since the basic order of vigilance check has been set aside so consequential order of transfer is also liable to be set aside as it is now not in line with the policy of inter-divisional transfer.

3. The learned counsel for the respondents insist that despite the quashing of the order still the respondents have a right to transfer the applicant under Rule 226 of the IREC, but the applicant submits that inter-divisional transfer is not permitted as the Railway Board had issued a circular wherein it has been observed as follows:-

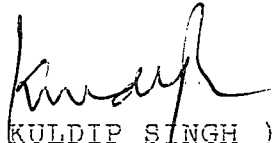
" Pursuant to the above discussion, it has been decided that while the existing policy of inter-divisional/inter-railway transfer of ticket checking staff detected to be indulging in malpractices shall continue, other staff in mass contact areas detected to be indulging in mal-practices should also be transferred on inter-divisional basis".

4. The learned counsel of the applicant then submitted that since in this case the penalty order based on vigilance check had been quashed and the court while quashing those orders had also observed that the findings recorded by the Inquiry Officer are based on "no evidence". Thus it exonerates the applicant completely of the charge, so the applicant does not seem to be covered under the policy of transfer of Railways issued on 2.11.1998 for being transferred on inter divisional basis. Considering the fact that applicant has been exonerated of the charge of indulging in mal-practices by such like employees and there is a general policy against

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inter-divisional transfer, so I am of the considered view that the OA deserves to be allowed and the transfer order is liable to be quashed.

5. In view of the above, OA is allowed and the impugned order of transfer Annexure A-1 is quashed. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

/Rajesh
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