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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1372/2002

This the 25th day of April, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

B.S.Verma,
Dy. Station Supdt.,
Northern Railway,
Delhi Sarai Rohilla Stn.,
Delhi.

(By Advocate: Sh. G.D.Bhandari)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Bikaner.
3. The Station Superintendent,
Northern Railway,
Delhi Sarai Rohilla Stn.,
Delhi.

(By Advocate: Sh. R.L.Dhawan)

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Applicant in this case impugns a telephonic message dated 16.5.2002 issued by Senior Divisional Operating Manager whereby the applicant has been transferred from Delhi Sarai Rohilla to Swroopsar. It is submitted that though the order is innocuous one but no reasons have been given and the said order has been issued in malafide and malacious manner. Even the administrative interest or public interest has not been mentioned in the order. It is further submitted that the notice and foundation of the impugned transfer order is a complaint lodged by a hench man Sh. Manjoor Ali and Rajya Sabha M.P. Jamana Devi Baroopal whom the applicant could not oblige by managing reservation from Delhi Sarai Rohilla to Bikaner by Bikaner Mail.



2. Applicant submits that he was appointed as Assistant Station Master in the Operating Department and eversince his appointment he has been shouldering his responsibility efficiently and to the entire satisfaction of his superiors and there was no occasion when he was awarded any material punishment. His ACRs are also of desired level and no adverse remarks have been passed.

3. He further submits that the job responsibilities of the post is directly connected with movement of the trains and it is Assistant Station Master who controls the movement of the trains in and out of a station. It is further submitted that all the categories of A.S.M., S.M., Dy. S.S., S.S. belong to the cadre of Station Master and are fully trained and qualified to handle the working of train operation and when there is a acute shortage a Dy. S.S. or even S.S. can also be asked to perform the duties of train movements in different shifts.

4. 24th April, 2002 was also one of such day when there was acute shortage. Applicant was to handle the job responsibility of A.S.M. and on that day at 21.10 hrs. a person came to the office of A.S.M. and asked to arrange for a reservation berth, when the applicant did not oblige him favourably he misbehaved with him and started using abusive language and threatened that he would suffer the consequences of his unfavourable attitude. Thereafter a complaint was lodged. Same complaint was given by Rajya Sabha M.P. to Railway Minister. It is on the basis of the said complaint,



the applicant was being punished and he was being posted in the far of place in deep Rajasthan. Thus, the transfer is punitive, malafide and motivated and it should be quashed.

5. Respondents who are contesting the OA deny that the applicant has been performing his duty satisfactorily. Rather they submitted that the applicant has been transferred on administrative grounds in the same capacity from Delhi Sarai Rohilla to Swoopsar in the same grade. It is further submitted that the transfer is an instance of service and since in this case the transfer order has been made in the administrative interest so applicant has to obey the transfer order.

6. During the course of the proceedings the applicant had also filed MA seeking production of record from the Railways with regard to complaint made by Manjoor Ali and Rajya Sabha M.P. and also with regard to the enquiry report of ARM and the file from which the transfer order has been issued. The respondents in response to this application have brought the record for perusal of the court.

7. I have heard the learned counsel for the parties and gone through the record.

8. Counsel for applicant submitted that though the transfer order was passed on 16.5.2002 but Delhi Sarai Rohilla Station which was earlier under the control of Bikaner Division has now been transferred to Delhi Division from April, 2003. So this transfer order has become infructuous and it should not be acted upon, since the place where the applicant is presently working has been taken out of Bikaner Division and

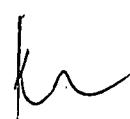
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transferred to Delhi Division. So the order passed by Bikaner Division cannot be made applicable to the applicant. Besides that counsel for applicant submitted that since transfer order is based on complaint made by one Manzoor Ali and Rajya Sabha M.P. and this is a punishment order and should not been given effect to it and the same is liable to be quashed because punishment is not a substitute for misconduct if any.

9. In reply to this Sh. Dhawan appearing for the respondents submitted that the department after viewing the conduct of the applicant had thought it proper in the administrative exigency to transfer the applicant from Sarai Rohilla to Swoopsar. Respondents' counsel submitted that though the applicant in his OA stated the facts that his conduct has been satisfactory but it is otherwise on record. In support of his contention he referred to Annexure R-2 particularly page 11 of the counter affidavit which shows various punishments awarded to the applicant during his posting at Delhi Sarai Rohilla. I had also seen the record called for by the applicant himself from the department pertaining to his transfer and with regard to his conduct. From the record I find that though the applicant has been singled out for transfer but there were sufficient reasons for the transfer of the applicant as per record itself. The conduct of the applicant itself did not warrant him to be retained at Delhi Sarai Rohilla so the administrative ground on the basis of which applicant had been transferred are quite justified and they do not call for any interference.

10. As regards the plea of the applicant that the order of transfer was issued by Bikaner Division and now since the Delhi Sarai Rohilla Station has been transferred to Delhi



Division so the order should not be given effect to. I may mention that the transfer order was passed on 16.5.2002 and on 21.5.2002 the applicant filed the present OA. When he filed the present OA this Tribunal on 23.5.2002 restrained the respondents for implementing the transfer order dated 16.5.2002 meaning thereby that the applicant was working at Delhi Sarai Rohilla Railway Station only under the protection of the stay order passed by the Tribunal. If the said order had implemented before the stay order, the applicant would have been transferred to his place of posting at Saroopsar. So even if the section of the Bikaner Division to which the applicant has been transferred to Delhi Division does not effect the order dated 16.5.2002 as the implementation of the same had been stayed by the order of the Court itself. So I find that this contention of the applicant also has no merits. Since the applicant is serving in an organisation where he has a transferable liability and the applicant who has been transferred in accordance with rules and as per administrative exigency of the department so we find that OA does not call for any interference and the same is dismissed.



(KULDIP SINGH)
Member (J)

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