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CENTRAL ADMINISTRATIVE TRIBUNAL = PRINCIPAL BENCH

Original Application No. 674 of 2002

New Delhi, this the 25th day of October, 2002

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

Shri Rohtash Singh  
S/o Sh. Sukhvir Singh  
R/o Railway Staff Quarter No. 'A' (KA)  
Type II, Block No. 4, Railway Station,  
Kandhala, District Muzaffarnagar,  
U.P.

-APPLICANTS

(By Advocate: Shri Rama Kant Gaur)

Versus

1. Union of India  
Ministry of Railways,  
Rail Bhawan,  
New Delhi.
2. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
3. The Divisional Manager,  
DRM Office,  
Northern Railway,  
Baroda House,  
New Delhi.


-RESPONDENTS

(By Advocate: Shri R.P. Aggarwal)

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant in this case has assailed an order of transfer dated 21.9.2001 vide which the applicant has been transferred from KQL (Khandla) to SMK. He has pointed out that when the OA was filed the Tribunal had passed an interim order directing that the transfer order be held in abeyance. However vide order dated 16.4.2002 the Tribunal vacated its earlier order and the applicant had then complied with the transfer order and had joined the duty, but still the applicant is aggrieved of the transfer order on the ground that the



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order of transfer is a punitive one as the applicant was issued a charge sheet dated 25.2.2001. In the statement of imputations annexed with the charge-sheet it was mentioned that the applicant while posted to work as officiating SM/KQL under Sr.DOM/DLI was subjected to a vigilance check and he was detected to have committed certain irregularities/misconduct as it was found that Bhoosa/fodder was stored in Quarter No.Type 1/S-4 (KA) and some scooters were also parked outside this quarter which was found to be illegal and unauthorisedly and the applicant was working as officiating SM under SM/KQL and failed to check irregularities at the station premises and should have stopped the unauthorised use of Railway Premises.

2. This charge-sheet culminated in a final order passed by the department wherein the applicant was awarded a penalty of WIT for a period of 2 years. The applicant preferred an appeal that is also stated to be rejected wherein the penalty has been reduced but the revision is still pending.

3. The learned counsel for the applicant pleads that the order of transfer itself makes it clear that the same is based on vigilance check and it is the vigilance department who had recommended his posting from KQL to SMK and it is only on the basis of the vigilance departments complaint that the applicant had been transferred from KQL to SMK and in support of his contention he has referred to a letter, Annexure A-7 page

*[Signature]*

4) wherein the representation of the applicant has been rejected for cancellation of his transfer as directed by the Tribunal in the earlier OA filed by the applicant.

4. So the basic contention of the applicant is that since the applicant is being transferred on the basis of the recommendation of the Vigilance Check so it is a punitive order particularly so when the applicant had already been punished so this amounts to a double punishment. The applicant also submits that he was not officiating as a Station Master but was working as ASM.

5. But from the perusal of the final order passed in the disciplinary proceedings, I find that the two authorities, namely, the disciplinary authority as well as the appellate authority had held him guilty though the revision is still pending but the fact remains that upto the stage of appellate authority the applicant has been held to be guilty. So now the question arises whether the vigilance department of the Railways has any right to recommend transfer of such like employees or it amounts to punitive order.


6. In this regard I may observe that the vigilance department has not only to see that the guilty officers are punished but also to see that the functioning of the Railways is being carried out properly and besides recommending the initiation of disciplinary proceedings for the misconduct they can also recommend the transfer as the Railway authorities have been acting on the recommendation of the vigilance even for the transfer of the employees as in this case. Besides

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seeking to challenge the initiation of disciplinary proceedings to transfer an employee on the basis of the report of the vigilance check which is not permissible because it is an administrative decision so the transfer order in this case seems to have been issued on the recommendation of the vigilance department who on seeing the working of the applicant, which was not found to be satisfactory at KQL and it is an administrative decision of the Railway Authorities to transfer the applicant, which cannot be challenged.

7. In view of the above, I find no ground to interfere and the OA has to be dismissed. Accordingly, the OA is dismissed. However, at the request of the learned counsel, it is made clear that the respondents will not take into consideration the observation made in this order while disposing of the revision petition which is pending before the respondents. No costs.

  
( KULDIP SINGH )  
MEMBER (JUDL)

/Rakesh