

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.286/99

HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the 26th day of May, 1999

Shri Ashok Kumar Mouria
Travelling Ticket Inspector
Northern Railway
Saharanpur

.... Applicant

(By Advocate: Shri B.S. Mainee)
VERSUS

UNION OF INDIA : Through
1. The General Manager

Northern Railway
Baroda House, New Delhi

2. The Divisional Railway Manager
Northern Railway
Ambala Cantt

3. The Station Superintendent
Northern Railway
Saharanpur

... Respondents

(By Advocate: Shri R.P. Aggarwal)

O R D E R

The applicant who is a Travelling Ticket Examiner (TTE), is aggrieved by the impugned order dated 11.12.98 (Annexure A1) passed by the General Manager, Northern Railway and forwarded by DRM, Northern Railway, Ambala Cantt, transferring the applicant from Ambala Division to Bikaner Division. The applicant states that on 22.9.98 when he was working on Train No.3308 DN from Ludhiana, he was approached for a second class berth upto Moradabad, for which he issued a receipt of Rs.55/-. The passenger gave a currency note of Rs.100 and without waiting for the balance disappeared. Immediately thereafter vigilance staff appeared on the scene and booked him for taking money

illegally. As a consequence of this incident, he was placed under suspension but the same was revoked shortly thereafter. This has been followed by the impugned transfer order. The applicant submits that transfer from one Division to another is an extraordinary step casting stigma on him and it is a camouflage for punishment.

2. The respondents in their reply state that the impugned order has been issued on administrative grounds. They say that there is a provision for inter-divisional transfers of ticket checking staff for eradication of malpractices and corruption in mass contact area. The respondents also raise an objection that the present O.A. is not maintainable as the Principal Bench has no territorial jurisdiction in the matter.

4. The learned counsel for the applicant Shri Maini relies on the orders of this Tribunal in O.A. No.2061-2063/98 dated 18.12.98 Bhupendra Kumar Vs. General Manager, Northern Railway and Ors. and connected cases. In those O.As. also the question of jurisdiction was raised and relying on the Full Bench judgment in O.A. No.458/91, decided on 4.5.91, it was concluded that the Principal Bench had jurisdiction in the matter as the orders had been issued by the General Manager, Northern Railway at New Delhi. The facts in the present case also being similar and the order having been issued by the General Manager, Northern Railway, the objection of the respondents regarding jurisdiction is rejected.

(19)

5. - On facts also I find that the impugned inter-divisional transfer has come as a result of vigilance complaint which led to the suspension of the applicant and the provocation for such transfer being the alleged corrupt practice, it has resulted in casting a stigma on the applicant. It can, therefore, only be regarded as a punitive measure. The proper course for the respondents would have been to initiate disciplinary proceedings against the applicant instead of taking recourse to inter-divisional transfer by way of punishing the applicant. I agree with the learned counsel for respondents that Courts and Tribunals are not supposed to interfere with transfers which are a normal incidence of service. However, the Tribunal can step in if such transfers are the result of mala-fide action or it is against statutory rules or is in contravention of rules of natural justice. The immediate provocation for the transfer is the allegation against the applicant that he was guilty of asking for a bribe for reserving a berth. The respondents placed the applicant under suspension. Instead of taking the matter to its logical conclusion by way of disciplinary enquiry, they then transferred the applicant to a far off place by the impugned order. Transfer orders in these circumstances cannot be sustained when the applicant had no opportunity to show cause and produce his defence.

6. In the result the O.A. succeeds. The impugned order of his transfer is quashed. Needless to add that the respondents will be free to transfer the applicant in administrative interest within the Ambala Division.

R.K. Ahoja
(R.K. AHOJA)
MEMBER (A)