

(Handwritten Signature)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No.2064/98

New Delhi this the 12 Day of April 1999

Hon'ble Shri R.K. Ahooja, Member (A)

Shri Aley Raza,  
S/o Late Shri Haider Raiza,  
Booking Clerk  
Northern Railway,  
Saharanpur.

... Applicant

(By Advocate: Shri B.S. Mainee)

Versus

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
Ambala.
3. The Station Superintendent,  
Northern Railway,  
Saharanpur, U.P. ... Respondents

(By Advocate: Shri R.P. Aggarwal).

O R D E R

The applicant, a Booking Clerk, posted at Saharanpur, is aggrieved by the order of his transfer from Ambala Division to Delhi Division of Northern Railway.

2. The case of the applicant is that the transfer has been ordered by way of a punishment after a vigilance check was made of his work in which an amount of Rs.27/- was found to be short at the booking counter. He was also placed under suspension after the vigilance check but his suspension was later revoked. The applicant states that this punishment has been imposed on him without giving him an opportunity for fair hearing.

(16)

3. Shri B.S. Mainee, learned counsel for the applicant, has relied on the orders of this Tribunal in O.A. No.2061-2063/98 dated 18.12.1998 wherein the applicants were similarly placed as Booking Clerks and had been transferred from Moradabad Division of the Northern Railway to the Lucknow Division of the same Railways consequent upon vigilance checks. The orders of transfer were struck down on the grounds that these had not been issued in the ordinary course of administration but were a camouflage for an order of punishment.

4. Shri R.P. Aggarwal, learned counsel for the respondents, argued that inter-divisional transfers are permissible under the instructions of the Railway Board if the Booking Clerks are found to be involved in corrupt practices.

5. I find that the facts in the present case are similar to those of the applicants in O.A. No.2061/98 and connected cases. Admittedly, the impugned order of transfer is the result of the vigilance check of the applicant which even led to the issue of an order of suspension. It was open to the respondents to initiate disciplinary proceedings against the applicant on the basis of the alleged corrupt practices. The transfer to a far off place cannot be used as a punitive measure, substituting the correct procedure of initiating disciplinary inquiry. As the exceptional measure of inter-divisional transfer is permissible only when the applicant is found to be indulging in corrupt practices, it has cast a stigma on

DR



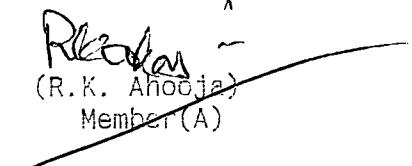
the applicant even though he had been given no opportunity of giving his defence. Accordingly, the impugned order of transfer is liable to be quashed and set aside. It is so ordered.

6. It is, however, made clear that the respondents, if they had not already done so, are free to initiate disciplinary proceedings against the applicant and thereafter if they consider that transfer is necessary in public interest so that the applicant does not try to influence the witnesses, they can act accordingly. The respondents would also be free to consider the transfer of the applicant within the division if it is in public interest.

No order as to costs.



(R.K. Anodja)  
Member (A)



sc