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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 839 of 1998 decided on 11.11.1998.

Name of Applicant : Smt. Suresh Yadav & another

By Advocate : Shri B.S. Mainee

Versus

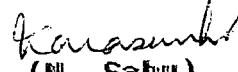
Name of respondent/s Union of India & others

By Advocate : Shri H.K. Gangwani & Shri O.P. Kshatriya

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)
Hon'ble Mr. A. Vedavati, Member (J)

1. To be referred to the reporter - Yes/No
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No


(N. Sahu)
Member (Admnv)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 839 of 1998

New Delhi, this the 11th day of November, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)

1. Smt. Suresh Yadav, w/o late Shri Rishi Pal Yadav, Sr. Parcel Clerk, Northern Railway, Railway Station, New Delhi.
2. Shri Anand Singh Bisht, S/o Shri Joga Singh Bisht, Parcel Clerk, Northern Railway, Railway Station, New Delhi. **-APPLICANTS**

(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, State Entry Road, New Delhi.
3. Sr. Station Manager, Railway Station, New Delhi.
4. The Divisional Traffic Manager, Northern Railway, D.R.M. Office, State Entry Road, New Delhi. **-OFFICIAL RESPONDENTS**

(By Advocate Shri O.P. Kshatriya)

5. Ram Kishan
6. S.K. Kumra

-PRIVATE RESPONDENTS

(By Advocate Shri H.K. Gangwani)

O R D E R

By Mr. N.Sahu, Member(Admnv)

This Original Application seeks quashing of impugned telephonic orders passed by the official respondents seeking to transfer the applicants out of Delhi. On 21.4.1998 an interim stay was allowed directing the official respondents not to implement

Amrit Singh

the said orders. Thereafter, the interim orders have continued. Subsequently, on 9.10.1998 an MA No. 1622/98 was allowed to implead two officers as private respondents.

2. I have heard the learned counsel for the applicants, the official respondents and the private respondents.

3. The grievance of the applicants is that they were transferred under pressure of the Unions on extraneous grounds and on account of colourable exercise of power. Applicant no.1 had filed a representation before the senior officers alleging improper behaviour and use of unparliamentary language by Shri S.K.Kumra, Chief Parcel Supervisor. The matter was enquired into by a senior officer. Her recommendations are as under -

"Conclusion- From the evidence on record it is very difficult to establish the charges of sexual harassment, but there certainly appears to have been harassment to her, at work, troubling her enough into disobeying the orders of her supervisors.

It cannot be stated with certainty whether at the time the incident of slapping occurred, Mr. Kumra was under the influence of liquor or not.

The fact that Smt. Yadav had disobeyed/refused to follow the orders of her supervisors cannot be denied. If there was a continuing problem which was affecting her, she could have taken a meeting with any of the officers of the division and put forth her point of view. She has taken the law into her own hands. She has slapped her supervisor, the reasons for which are difficult to establish on the basis of available evidence.

Anand Singh Bisht
Shri Anand Singh Bisht has also apparently refused to obey the orders of his supervisors.

There seems to be a lot of factionalism at New Delhi Parcel Office which is being controlled by both the Unions. The unions have been occupying the most important seats of staff arrangements and evidently there is partiality and extraneous considerations in allotting work. The result of this proxy appears to have taken this extremely unpleasant form.

It is recommended that Sh. Ram Kishan, Sh. Kumra and Sh. Anand Singh Bisht are transferred out of Delhi area in different far off places and Smt. Yadav be put to work in DRM Office or elsewhere under the direct supervision of an officer. Their presence at New Delhi station is only corroding and vitiating the atmosphere there.

4. In the case of Ram Kishan (O.A. No. 2030/98), who is a private respondent in this case, on 31.10.1998 I have discussed the background of this case at great length and held that as the transfer was made on the recommendations of the enquiry officer and as the Union's representations were also considered, there was no justification for continuation of the stay. I accordingly vacated the interim stay order in that case.

5. The learned counsel for the applicants has placed before me a copy of the order of the Minister for Railways dated 10.8.1998 in which on the recommendations of the enquiry report, the Minister directed the transfer of Shri S.K.Kumra, Chief Parcel Supervisor and Shri Ram Kishan, Chief Parcel Clerk and also directed cancellation of the transfer order of applicant no.1 Smt. Suresh Yadav issued on 21.4.1998. Shri Kshatriya, learned counsel for the official respondents confirms the orders of the Minister but states that as the matter is subjudiced the said cancellation order was not communicated.

Naresh Kumar

6. As the order of transfer was cancelled by the Minister, no further grievance survives in the P.O.A. in respect of applicant no.1.

7. With regard to applicant no.2 it is stated that he was already under orders of transfer for Narela vide circular no. 220-E/1062/Pt.X/P-2 dated 13.9.1997. Shri Mainee states that this transfer was not implemented and refers to Para 4.26 of the counter. It is admitted in para 4.26 that the respondents have transferred both the applicants by a control order (telephone orders). There is no denial that there was such a transfer order of applicant no.2 as well. Even so, the question arises - what right applicant no.2 has to question this transfer and what right has been infringed. Shri Mainee states that it is not a routine transfer in an administrative exigency or in public interest. This transfer has arisen because of the efforts of applicant no.2 to defend the case of applicant no.1 and assist her in securing justice for her. He states that the order of transfer is motivated and punitive.

8. Shri Kshatriya, learned counsel for the respondents submits that applicant no.1 misbehaved with her supervisory staff and had not acted as a devoted public servant. The transfer was effected only to maintain discipline in the office. He stated that the earlier order of transfer in September, 1997 was neither stayed nor modified/cancelled. The

transfer to Narela is virtually within Delhi within a distance of 10 Kms. Applicant no.2 cannot have any grievance for such a transfer.

9. Shri Gangwani, on behalf of the private respondents submitted that there is no transfer order which is the subject matter of the O.A. The behaviour of applicant no.1 in slapping her supervisor was unlawful as the enquiry report would bear it out. Applicant no.1 had a concocted story of sexual harassment against the private respondents.

10. I have carefully considered the submissions. I have vacated the stay in OA 2030/98 on 31.10.98 in the case of private respondents, who were applicants in that OA, on the basis of the enquiry report. Even in this O.A., none of the parties has questioned the conclusion arrived at in the enquiry report. The authorities only followed the recommendations of the enquiry report and effected the impugned transfer orders. As the transfer order of applicant no.2 was made on the basis of an independent enquiry report arising out of the complaint of applicant no.1, the said order does not call for any interference. As already stated above, the orders of transfer of applicant no.1 are being cancelled and thus her petition has become infructuous.

11. In the result, the O.A. is dismissed. Interim orders are vacated. No costs.

rkv.

Manasimha Singh
(M. Singh) 11.11.98
Member (Admnv)