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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 2578/97

New Delhi: this the 20<sup>th</sup> day of August, 1998.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

P. N. Bajpai,  
S/o Shri MN Bajpai,  
B-10/2, Krishna Nagar,  
Delhi-51,  
Senior Booking Clerk,  
Northern Railway,  
New Delhi.

..... Applicant.

(By Advocate: Shri H. K. Gangwani)

Versus

Union of India through

1. General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.

3. The Chief Area Manager,  
Northern Railway,  
New Delhi.

.... Respondents.

(By Advocate: Shri D. S. Mahendru)

JUDGMENT

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns the order dated 13.9.97 (Annexure-A1) transferring him from New Delhi to Mansa.

2. Applicant does not specifically deny in rejoinder the contentions of respondents in para 4.4 of their reply that he was in supervisory charge of Ajmeri Gate Booking Office where Shri Rajiv Arora and Hari Singh were to be on duty as Counter Clerks as per roster. Accordingly when the DTM inspected the New Delhi Railway Station Booking Office and

upon not finding S/ Shri Rajiv Arora and Hari Singh on duty he asked applicant about their whereabouts and he could not give any satisfactory reply for their absence (he himself admits in para 4 of the OA that he had no idea of their absence) respondents transferred him as well as S/ Shri Arora and Hari Singh.

3. While applicant alleges that the transfer is punitive, respondents deny the same, and state that it has been done in the public interest for administrative reasons to improve the working at public dealing seats so as to avoid any complaint from the public.

4. I have heard Shri Gangwani for the applicant and Shri Mahendru for respondents.

5. Shri Gangwani has asserted that the transfer is illegal, arbitrary, malafide and in colourable exercise of power, besides being discriminatory or punitive, various judgments have been cited in support of these contentions including 1988 (1) AISLJ 162; 1984 (2) SLR 148; ATR 1986 (1) 304; ATR 1992 (2) 316; and ATR 1990 (1) 378. Shri Mahendru has however denied these contentions.

6. I have considered these rival contentions carefully.

7. It is well settled that transfer is an incidence of service and in UOI Vs. H.N. Kirtania JT 1989 (3) SC 131 the Hon'ble Supreme Court has held that transfer in public interest should not be interfered with unless there are strong and pressing

grounds rendering the transfer order illegal on the ground of violation of statutory rules, or on grounds of malafides. In the present case, manifestly there has been no violation of statutory rules. As regards malafides, except for some allegations contained in para 4.13 and 4.14 as well as in para 5(a) of the OA, malafides have not been specifically alleged against any particular officer and in any case no officer has been made a party to enable him to reply to the allegations.

8. Furthermore there is nothing to establish that the transfer suffers from the other infirmities alleged by Shri Gangwani. It is not illegal because applicant is legally liable to be transferred; it is not arbitrary nor discriminatory as applicant is not the only person picked out for transfer but is one amongst 13; and it is not a colourable exercise of power or punitive because as per respondents' averments in reply it has been made for administrative reasons in the public interest to improve the working at seats where the public are dealt with, to avoid complaints. Clearly, if the supervisor is unaware of the whereabouts of his subordinates who are engaged in dealing with the public, the public interest require a more effective and efficient supervisor, and if that supervisor is transferred, it does not necessarily mean that the transfer is by way of punishment or

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involves colourable exercise of power.

9. The OA therefore warrants no interference.  
It is dismissed. No costs.

*infhg*  
( S. R. ADIGE )  
VICE CHAIRMAN (A).

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