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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI.

Regn. No. OA 436 of 1989

Date of decision: 4.7.1989

Shri Ashok Kumar Rajput

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Applicant

Vs.

Union of India & Others

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Respondents

PRESENT

Shri R.L. Sethi, counsel for the applicant.

Shri Shyam Moorjani, counsel for the respondents.

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri Ashok Kumar Rajput, Sr. Ticket Collector, Northern Railway, Delhi Main Railway Station, against impugned orders No. 940E/77/Loose/P2 dated 24.2.1989 passed by the Divisional Railway Manager, Northern Railway, New Delhi, transferring the applicant from Delhi to Modinagar.

2. Brief facts of the case, as stated by the applicant in the application, are that the applicant was recruited as Ticket Collector on compassionate ground in 1983 and was promoted to the post of Senior Ticket Collector in April, 1988, and is currently working at Delhi Main Railway Station. Respondent No. 3 (Shri S.P. Sharma, Vigilance Inspector, Northern Railway, Baroda House, Delhi) before his appointment as Vigilance Inspector worked as Inspector RPF was inimical to the applicant as the applicant had complained to the higher officers against Respondent No.3 indulging in corrupt practices and Respondent No.3 had and openly threatened the applicant to teach him a lesson/as such bore malice against the applicant. Respondent No.3 raided the applicant while on duty on 3.8.88 and involved ^{him} in a vigilance enquiry for alleged "showing non-cooperation towards Vigilance Team" as a result of which the applicant was placed under suspension on 4.8.88 which was revoked on 6.2.89, but the Depart-

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mental proceedings instituted and charge issued on 12.12.88. While the Departmental proceedings are in progress, the applicant has been punished twice - debarring him from cash duty for a period of five years (Annexure A-3 to the application) and transferring the applicant from Delhi to Modinagar (Annex.A-1 to the application) - which is highly illegal, void and against the principles of natural justice, equity and good conscience.

3. The grounds urged by the applicant against the impugned orders are that they stem out of the malice and malafides of Respondent No.3, they impose a penalty for an alleged charge which is still under investigation and they are not in public interest. The applicant prays the Tribunal to set aside the impugned transfer order dated 24.2.89.

4. The respondents in their reply have denied that the transfer of the applicant is arbitrary and punitive and that the applicant has been transferred on administrative grounds. They have also denied the allegation of the applicant against Respondent No. 3 as absolutely wrong as there are no complaints in their record. It is wrong that Respondent No.3 involved the applicant in a vigilance inquiry. The applicant is facing the said inquiry on account of his own conduct. They have stated that debarring the applicant from cash duty is no punishment. No benefit or right of the applicant has been impaired. It is for the administration to decide what particular work is to be allotted to a particular employee. The applicant has been transferred in the interest of Administration and there is nothing malafide on the part of Administration. An inquiry against the applicant has been initiated to find out the truth of the charges levelled against him and no punishment has been awarded to the applicant. The applicant holds a transferable post and the transfer order is not a penalty. He has been transferred in the interest of public and administration and the Hon'ble Tribunal ought not to interfere with the same. Moreover, the applicant has been transferred to Modinagar which is also within Delhi Division.

5. The learned counsel for the applicant emphasised the point that the applicant had alleged malafide against Respondent No.3 who has not appeared and this transfer is only to settle scores as the applicant had made complaints against Respondent No.3. He also said that this is not a transfer simpliciter as a stigma has been cast on the applicant, specially as the applicant has been denied dealing with cash. The learned counsel for the applicant quoted the full Bench case of Kamlesh Trivedi (1988)(7) AT C p. 253 which lays down that transfer must be done in public interest and in exigency and should not be in colourable exercise of power. It should not be arbitrary and should be according to rules or transfer policy issued by the competent authority. The present transfer has been done at the behest of the Vigilance Inspector and there has been no proper enquiry. He also said that this will also have a very serious unsettling effect on the family as the applicant has a blind father and an old mother.

6. The learned counsel for the respondents said that there was no question of the transfer being done at the instance of Respondent No.3. The orders have been passed by the competent authority. He also said that there^{were}/no papers with the respondents alleging any complaint against Respondent No.3. He also pointed out that according to the applicant, Respondent No. 3 had worked as Inspector in the Railway Protection Force and was very inimical to him and yet he claimed that he did not know Respondent No.3 when he came to him for checking. He said that in the circumstances no malice could be attributed to Respondent No.3 who was only doing his duty as a Vigilance Officer.


7. The file of the Headquarters produced before the court shows that the vigilance staff was checking cases of illegal gratification from milk vendors at the railway station and a report was sent by the Chief Vigilance Officer, Northern Railway, to the DRM for taking action and that the DRM considered it necessary to transfer the applicant in public interest.

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8. The learned counsel for the applicant, Shri R.L. Sethi, said that there was persistent attempts to harm the applicant as he was placed under suspension and was debarred from handling cash for five years and now he has been transferred. The applicant has, therefore, suffered three punishments on the charge of not cooperating the vigilance.

9. I have ^{gone} through the evidence, but the charge of malice against Respondent No. 3 has not been established. If the DRM who was the competent authority came to the conclusion that it was in public interest to shift the applicant from Delhi to Modinagar station to improve the image of Railways, perhaps it may not be necessary to interfere with his administrative action. Suspension, which was also revoked, and transfer are not punishments as such and since the transfer order does not say that it is because of his accepting illegal gratification, no stigma as such has been attached to the transfer order. The departmental enquiry, if it continues, can be decided on its own merits. In the circumstances, I see no reason to interfere with the transfer order. The application is dismissed. There will be no orders as to cost.


(B.C. Mathur) 4.7.88
Vice-Chairman