

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 875/89.
T.A. No.

198

DATE OF DECISION 27.7.1989.

Virender Kishore Verma Applicant (s)

Shri R.L. Sethi Advocate for the Applicant (s)

Versus

Union of India & Ors. Respondent (s)

Shri O.P. Kshatriya, Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. P. Srinivasan, Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

In this application, the applicant, who is working as a Special Ticket Examiner in the Northern Railway, complains that he has been illegally transferred from the Delhi Main Railway Station to Jind. He prays that the impugned order of transfer dated 17.2.1989 be set aside. The applicant states in his application and this is reiterated by Shri Sethi before me that his transfer is a result of malice against him of a certain Shri S.P. Sharma, Vigilance Inspector. Shri Sethi submits that the Vigilance Inspector conducted a raid while the applicant was on duty on 28.12.1988 and submitted a report thereon accusing the applicant of certain irregularities and it was as a result of this that the Vigilance Inspector caused him to be transferred. In support of his allegation of animus on the part of the Vigilance Inspector, Shri Sethi relied on a complaint which the applicant

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made against the said Shri Sharma alleging that the latter was corrupt. Because of this, Shri Sethi contends, ^Mthat the Vigilance Inspector conducted a raid and complained against the applicant which resulted in his transfer. He, therefore, pleaded ^{be B}that the order of transfer ~~of~~ quashed.

2. Shri O.P. Kshatriya, counsel appearing for respondents 1 and 2, denied the allegations of Shri Sethi. He submitted that it is a routine duty of the Vigilance Squad to conduct surprise raids and it was in the course of these duties that a raid was made by Vigilance ^MSquad of which Shri S.P. Sharma was a member, when the applicant was on duty. The Vigilance Squad found that the applicant had not accounted for a sum of Rs. 100/- received by him as excess fare and as a result, disciplinary proceedings had been initiated against the applicant. The vigilance raid was a routine matter and the applicant was transferred on administrative grounds. Transfer being an incident of Government service, Shri Kshatriya submitted, ^Mthat this Tribunal should not interfere with the impugned order. Shri Kshatriya also submitted that in another case of a certain Ashok Kumar Rajput who was transferred, the applicant had alleged that his transfer was as a result of malice on the part of Shri S.P. Sharma. His application had been dismissed (O.A. No. 436/89 decided on 4.7.1989 by the Principal Bench of the Tribunal).

3. Shri S.P. Sharma, respondent No. 3, who appeared before me personally, denied the charge that he bore any malice towards the applicant. He submitted that he had never worked with the applicant. It was during a routine vigilance check that he raided the carriage in which the applicant was working on 28.12.1988. He was not, in any way, responsible for the

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transfer of the applicant. Shri Kshatriya produced the records of respondents 1 and 2 which I have perused. From a persual, I find that the General Manager (Vig.) addressed a letter to the D.R.M., New Delhi on 30.1.1989 enclosing "a copy of the preventive check report alongwith its enclosures" for the latter's perusal and immediate necessary action. It was suggested that proceedings for imposition of a major penalty be initiated against the applicant. This letter was received in the office of D.R.M., New Delhi on 31.1.1989. Thereupon, a note was put up on 10.2.1989 to the Senior Divisional Commercial Superintendent (SDCS) in the office of the D.R.M. referring to the said letter of the General Manager (Vig.) The last paragraph of this note reads as follows:-

"Regarding his transfer from DLI, the P. Br. has advised vide S-№ 4 that there is only one vacancy at JHI due to non resumption of duty on promotion by Shri A.K. Bhutani from GZB at JHI. Shri Verma can be transferred to JHI on administrative grounds and Shri Bhutani can be retained at DLI vide him, if agreed to."

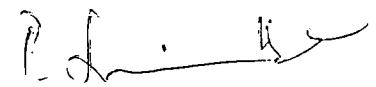
Case is put up for consideration of transfer of Shri V.K. Verma, STE/DLI."

4. It is well known that transfer is a normal incident of Government service and this Tribunal will be slow in interfering with orders transferring Government servants unless it can be shown that the order was motivated by mala fides or was in violation of the rules prescribed for the purpose. The applicant here alleges that the Vigilance Inspector had acted out of malice against him. I cannot here brush aside the contention of respondent Nos. 1 and 2 that the Vigilance Squad has to periodically make checks and that one such check was made on 28.12.1988. Merely because the Vigilance Squad made a check and made a report in a routine way, one cannot come to the conclusion that the raid was motivated by malice. If I may say so, it is one of the professional hazards of being a Ticket Examiner. The resultant disciplinary proceedings are another matter with which I would not here concern myself.

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What I find from the perusal of the records is that the G.M. Vigilance reported to the D.R.M. as to what happened during the raid and he did not suggest that the applicant be transferred. When the G.M. Vigilance himself did not propose that the applicant be transferred, it is idle to say that the Vigilance Inspector, who ^{was} only his subordinate, was instrumental in getting the applicant transferred. On the other hand, it was the office of the D.R.M. which, on its own, suggested the transfer of the applicant on administrative grounds. If the intention was that the applicant should be kept out of the place of his original work in order to conduct the enquiry properly, that would, in my opinion, constitute adequate administrative grounds for transfer. But even that is not stated in so many words in the note put up to the D.R.M. While reading the note, the only impression one gets is that it was a routine proposal for transfer. I am, therefore, unable to agree that the transfer was arbitrary or a colourable exercise of power, as suggested by the learned counsel for the applicant.

5. In the circumstances, the application is dismissed leaving the parties to bear their own costs.


(P. Srinivasan)
Member.
27.7.1989.