

DATE OF DECISION 7.5.1986.

CORAM :

The Hon'ble Mr. H.P. BAGCHI, JUDICIAL MEMBER

- The applicant has come up under Section 19 of the Administrative Tribunals Act, 1985 and prayed that his transfer from Meerut to Delhi should be quashed as the disciplinary

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proceedings are underway and as he is undergoing medical treatment for heart ailment at Meerut. He has also mentioned that he had been recently transferred and further transfer to Delhi is due to malafide reasons.

2. The brief facts of the case which are not in dispute are as follows: There was some confrontation between the applicant and some Vigilance Inspectors on 6.6.85 and ^{6. on} 21.6.86 the applicant was placed under suspension. The suspension order was revoked on 10.7.85, but in the meantime he was transferred from Meerut City to Meerut Cantt. On 7.8.85 a charge-sheet was served on him for not cooperating with the Vigilance Inspectors and creating a scene in the office. On 6.12.85 the applicant complied with the transfer order and joined in Meerut but on 24.3.86 he was again transferred from Meerut to Delhi. According to the respondents there was no malafide in the transfer orders and the first transfer cannot be held to be a transfer in physical terms. The suspension order was revoked as soon as the investigation was over.

3. We have heard the arguments of the learned Counsel for the petitioner and gone through the papers very closely. It is admitted that first transfer on 3.7.85 was in Meerut itself and this cannot be held to be ^{a valid} basis for challenging the second transfer on 24.3.86 to Delhi. The petitioner has quoted the circular of the Railways in his petition but some portion of the circular is omitted. Therefore, the full text of the relevant portion is reproduced as follows:-

" The non-gazetted railway staff against whom a disciplinary case is pending or is about to start, should not normally be transferred

From one Railway/Division to another Railway/Division till after the finalisation of departmental criminal proceedings irrespective of whether the charges merit imposition of a major or a minor penalty. "

{ E(D&A) 65 RG- 6-6 dated 25.3.1967 }

It is admitted that the Delhi and Meerut are in the same Railway/Division and therefore the plea of the applicant that he has been transferred against the aforesaid circular of the railway is untenable.

4. The transfer from Meerut to Delhi cannot by any stretch of imagination be considered to be adverse to the medical interests of the petitioner who as stated in the counter affidavit had been getting medical advice and attention both in Meerut as well as in Delhi. The medical facilities specially in case of cardiac treatment are better in Delhi than in Meerut and we feel that it will be more advantageous for the petitioner to be posted in Delhi rather than in Meerut. We cannot therefore find any fault or lack of humanitarian ground in the impugned transfer order. In the facts and circumstances of the case, we do not find the application a fit case for our intervention and dismiss the same. There will be no order as to costs.


(H.P. BAGCHI)
JUDICIAL MEMBER


(S.P. MUKERJI)
MEMBER