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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1842/87
~~R.A.~~ No.

198

DATE OF DECISION 4.7.88

Shri Purshottam Petitioner

Shri V.P. Sharma Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Ms. Shashi Kiran Advocate for the Respondent(s)


CORAM :

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. S.P. MUKERJI, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*


(S.P. MUKERJI)
ADMINISTRATIVE MEMBER


(P.K. KARTHA)
VICE CHAIRMAN

7

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

O.A.No.1942/87

Date of decision 4.7.88

Shri Purshottam , Petitioner

Vs.

Union of India & Others Respondents

Shri V.P. Sharma Advocate for the
Petitioner(s)

Ms. Shashi Kiran Advocate for the
Respondent(s)

CORAM:

THE HON'BLE Mr. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE Mr. S.P. MUKERJI, ADMINISTRATIVE MEMBER

(Judgment of the Bench delivered by Hon'ble
Shri S.P. Mukerji, Administrative Member)

95

The applicant, who was working as a Gateman under the Northern Railways has moved this application under Section 19 of the Administrative Tribunals Act praying that the impugned order dated 23.7.1987 transferring him from the post of Gateman to the post of Gangman may be set aside as the same is

punitive.

2. The brief facts of the case are that the applicant was earlier holding the post of Gangman and was posted at his own request as Gateman in the same pay scale in 1984. On one occasion he was found sleeping while on duty at the time when 233 UP and 244 DN were to pass and he was given a warning to be more careful. A joint enquiry was conducted and as per the recommendations of the Enquiry Committee, the applicant was relieved of his duty of Gateman in the interest of public safety and was transferred as Gangman in the same grade.

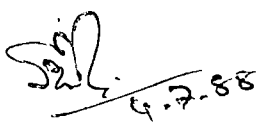
3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. It is admitted by the applicant that he was transferred from the post of Gateman to that of Gangman in the same scale of pay, thus there was no adverse monetary effect nor can it be stated that the transfer was punitive in nature. The clause in the impugned order that the applicant was "unfit for Gateman duty", does not to our mind lend any stigma to the order. Unfitness for a particular post does not mean that one is basically unfit for other posts also. We are satisfied that the order of transfer was not actuated by any punitive or mala fide motive, but was in public interest. The applicant was qualified to hold the post of Gangman and he had himself on an earlier occasion accepted his

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posting as Gangman. In K.B. Shukla Vs. Union of India 1979(2) SLR 58, the Supreme Court held that the Government which is responsible for good administration, would be the best judge in the matter of transfer in the exigency of service and the Courts cannot intervene except where there are mala fides, dishonesty or extraneous considerations. In B. Vardha Rao Vs. State of Karnataka and others, 1986(4) SCC 131 at 134, the Supreme Court has made the following observations to the same effect:-

" It is well understood that transfer of a government servant who is appointed to a particular cadre of transferable posts from one place to another is an ordinary incident of service and therefore does not result in any alteration of any of the conditions of service to his disadvantage. That a government servant is liable to be transferred to a similar post in the same cadre is a normal feature and incident of government service and no government servant can claim to remain in a particular place or in a particular post unless, of course, his appointment itself is to a specified, non-transferable post".

In the case of the Railways especially, exigencies of service must take precedence over individual preference or convenience. In the circumstances of the case, we see no reason to intervene in the matter and dismiss the application. There will be no order as to costs.


(S.P. MUKERJI)
ADMINISTRATIVE MEMBER


(P.K. KARTHA)
VICE CHAIRMAN