

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2372/2004

This the 17th day of November, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Izahar Ahmed Khan S/O Ahmed Ali Khan,
Traffic Inspector (M),
Northern Railway,
Railway Station, Hapur.

... Applicant

(By Shri B.S.Maine, Advocate)

versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House, New Delhi.

2. Divisional Railway Manager,
Northern Railway, Moradabad.

3. Sr. Divisional Personnel Officer,
Northern Railway, Moradabad.

... Respondents

(By Shri R.L.Dhawan, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Applicant has been working as Station Superintendent at Bulandshahar. On 27.7.2004 vide Annexure A-2 he was transferred to the post of Traffic Inspector, Hapur on administrative grounds. He resumed duty as Traffic Inspector at Hapur on 1.8.2004. These orders were pended vide Annexure A-1 dated 25.9.2004 which have been challenged through this OA. It has been alleged on behalf of the applicant that the impugned order has not been passed in administrative exigency or public interest but solely for extraneous reasons and under pressure of the trade union.

2. At the outset, the learned counsel of the respondents, Shri R.L.Dhawan took exception to territorial jurisdiction of the Principal Bench of this Tribunal to entertain this



9

OA. He stated that these orders have been passed by DRM, Moradabad and applicant has been working at Hapur. Both Moradabad and Hapur do not fall within the territorial jurisdiction of the Principal Bench of this Tribunal. As such, this OA is not maintainable.

3. The learned counsel of the applicant pointed out that these orders have not been passed by DRM, Moradabad but by the Additional General Manager, Northern Railway, New Delhi. In this backdrop, the Principal Bench of this Tribunal does have jurisdiction.

4. We have perused the related record produced by the respondents. Senior DOM has recorded in the file on 25.9.2004 that "Order of Shri I.A.Khan as TI Hapur and Shri A.Z.Khan as TI Moradabad Branch Line are hereby cancelled as instructed by AGM/NR on 22.9.2004 and both of them are restored to their previous postings". The file was put up to DRM for information who ordered, "The orders may be pended. Sd/- 25.9.04". The notes in the file make the position absolutely clear. The respondents' contention that orders were passed by DRM, Moradabad is incorrect. The DRM has merely endorsed the action taken on cancellation/pendency of Annexure A-2 dated 27.7.2004 which had been directed by the Additional General Manager, Northern Railway, New Delhi. In this background, respondents' objection regarding territorial jurisdiction of the Principal Bench of this Tribunal is rejected.

5. The learned counsel of the applicant attacked the impugned orders on the following grounds:

- (1) The impugned order has not been issued in exigency of service or on any administrative grounds. These orders were passed on extraneous grounds and under the undue pressure of the trade union. Applicant had been transferred to Hapur vide Annexure A-2 dated 27.7.2004 and had been functioning there for approximately two months when the impugned orders Annexure A-1 were passed. These orders could not have been pended having already been implemented.
- (2) Earlier orders Annexure A-2 dated 27.7.2004 were passed with approval of DRM who is the competent authority, while cancellation orders Annexure A-1 have



10

been passed by the Additional General Manager on extraneous grounds and not in exigency of service.

6. The learned counsel of respondents has submitted the related official records to ^{apprise lb} the circumstances in which Annexure A-2 dated 27.7.2004 was pended vide the impugned orders Annexure A-1. He relied on the following :

- (1) *State of Madhya Pradesh & Ors. v Sri S.S.Kaurav & Ors.* : 1995 (2) SLJ 109 (SC);
- (2) *National Hydroelectric Power Corporation Ltd. v Shri Bhagwan & Anr.* : 2002 (1) SLJ 86 (SC).

The learned counsel stated that the Courts or Tribunals are not appellate forums to decide on transfer of officers on administrative grounds. They should not interfere with the working of administrative system by transferring the officers to proper places. It is for the administration to take appropriate decisions and such decisions should not be set aside unless they are vitiated either by *mala fides* or by extraneous considerations without factual background foundation. He further pointed out that transfer to a similar post in the same cadre is a normal feature and incidence of government service and no government servant can claim to remain in a particular post unless, of course, his appointment itself is to a specified non-transferable post.

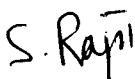
7. We have considered the rival contentions.

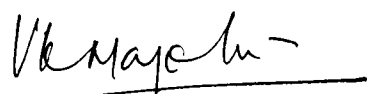
8. A perusal of the related file produced by the respondents does not indicate the reasons, exigencies of service or administrative grounds on the basis of which Annexure A-2 was pended/cancelled. While the competent authority admittedly is the DRM, Annexure A-1 has been issued at the behest of the Addl. General Manager without indicating any reasons. Such an order in this backdrop smacks of *mala fides*/extraneous considerations. The ratios of the cases of *S.S.Kaurav* and *Shri Bhagwan* (supra) are not applicable to the facts of the present case. Applicant had been transferred vide Annexure A-2 to Hapur. He had resumed duties at Hapur and had functioned there as Traffic Inspector for a period of about two months, but these orders were cancelled without stating any reasons either in annexure A-1 or even in the official records. Annexure A-1 has the import of cancellation of Annexure A-2. Orders Annexure A-2 had already been

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implemented. The question of pendency of such orders, which have been implemented, does not arise. Cancellation having been made as stated above on extraneous considerations and without any administrative grounds, can certainly be interfered with by the Tribunal in the interest of justice. Accordingly, the impugned orders Annexure A-1 dated 25.9.2004 are quashed and set aside. Annexure A-2 dated 27.7.2004 transferring the applicant as Traffic Inspector, Hapur where he joined on 1.8.2004 would remain in force.

9. The OA is allowed as above.


(Shanker Raju)
Member (J)


(V. K. Majotra)
Vice-Chairman (A) 17.11.04

/as/