

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 25TH DAY OF AUGUST, 1998

Original Application No.251 of 1996

HON.MR.S.K.AGRAWAL, MEMBER(J)

Pratap Yadav, Head TTE. Jhansi
Son of Retd. Major Ramji Lal,
R/o 22, Ankush path, Jhansi
Cantt. (U.P.)

.. .. Applicant

Versus

(By Adv: Shri A.R.B.Kher)

Versus

1. Union of India, through General
Manager, Central Railway, Bombay V.T.
2. The Divisional Personal Officer
(D.P.O) Central Railway, Jhansi
3. The Divisional Commercial Manager (General)
(D.C.M(G), Central railway, Jhansi

.. .. Respondents

(By Adv: Shri Prashant Mathur)

O R D E R (Oral)

HON.MR.S.K.AGRAWAL, MEMBER(J)

In this application u/s 19 of the Administrative
Tribunals Act 1985 the prayer of the applicant is to
quash the impugned order of transfer dated 13.2.1996.

2. The brief facts of the case as stated by the
applicant are that the applicant was appointed on the
post of T.C. on 6.4.1979. The applicant was placed
under suspension on 30.11.1995 inconnection with a
vigilance case happened on 30.11.95. It is submitted
that impugned order of transfer dated 13.2.96 is wholly
illegal, arbitrary and against the rules and during the
suspension period the applicant should have been
remained posted at Jhansi Head quarter but his head
quarter was changed. It is also submitted that the
impugned order of transfer is not in the interest of

administration, therefore wholly illegal in this way. By this OA the applicant makes a prayer to quash the impugned order of transfer.

3. Counter affidavit was filed by the respondents. In the counter affidavit it is stated that the order of transfer dated 13.2.96 was passed in administrative exigencies and in series of this the head quarter of the applicant under suspension was changed on the basis of the gravity of the major penalty chargesheet issued against him. It is also submitted that impugned order of transfer is perfectly legal and was issued by the Competent Authority and as per rules. Therefore the impugned order of transfer cannot be said to be arbitrary. The Competent Authority has issued this impugned order of transfer in administrative exigency. Therefore in view of the averments made in the counter affidavit the respondents have requested to dismiss the OA with cost.

4. Heard the learned lawyer for the applicant and learned lawyer for the respondents.

5. On the perusal of the whole pleadings there appears to be no grounds in the OA regarding the malafides or infraction of any professed norms or subsequently violation of any executive instructions issued for the purpose of transfer. Learned lawyer for the applicant has submitted that suspension order which was passed by the respondents and thereafter the head quarter of the applicant was changed ifsofacto reveals that there was malafides and inference of malafides should have been drawn against the respondents in this case. The learned lawyer for the respondents on the other hand objected this argument and submitted that a major penalty charge sheet was issued to the applicant and looking to the gravity of the chargesheet levelled

against the applicant is the head quarter was shifted. Therefore this does not seem that the impugned order of transfer was issued with malafides.

6. In 'Shilpi Bose(Mrs) and Others Vs. State of Bihar and Others 1992 SCC(L&S) 127 Hon'ble Supreme Court has observed that even if transfer orders are issued in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected persons should approach the higher authorities in the department. It is for the administration to take appropriate decision in the matter of transfer on administrative grounds.

7. In State of M.P. and another Vs.S.S.Kourav and Others 1995 SCC(L&S) 666 and in Rajendra Roy Vs. Union of India and another 1993 SCC(L&S) 138 the Hon'ble Supreme court observed the transfer order which is not malafide and not inviolation of service rules cannot be quashed by the court.

8. In Union of India and Others Vs. S.L. Abbas 1994 SCC(L&S) 230 Hon'ble Supreme Court has held that the order of transfer made without following guidelines cannot be interfered by the court unless order is malafide or is made in violation of statutory provisions.

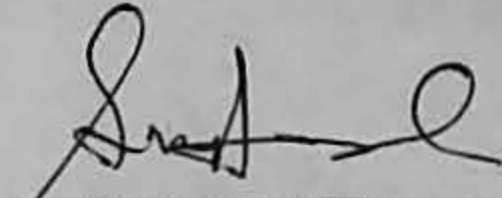
9. In N.K.Singh Vs. union of India and Others 1994 SCC(L&S) 1304 their Lordships of the Hon'ble Supreme court observed in para 2 of the judgment that the only realistic approach is to leave it to the wisdom of that hierarchical superiors to make that decision. Unless the decision is vitiated by malafides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially.

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10. On the perusal of the legal position as referred above and in view of the facts and circumstances of this case I am of the considered view that applicant failed to establish a case for seeking relief sought for.

11. Therefore, this OA is dismissed with no order as to costs.

Dated: 25.08.98


MEMBER (J)
25/8/98

Uv/