

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A.No./T.A.No. 1237 of 1997

Date of decision

4/5/97

Munna Lal Srivastava

Applicant(s)

C/A

Shri S.K.Om, Adv.

COUNSEL for the
Applicant(s)

Versus

Union of India, Ors.

Respondent(s)

Shri G.P.Agrawal, Adv.

Counsel for the
Respondent(s)

C O R A M


Hon'ble Mr. S.K.Agrawal

V.C./Member(J)

Hon'ble Mr. -x-

Member ()

1. Whether Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporters or not ? yes
3. whether their Lordship wish to see the fair copy of the judgment ? yes
4. Whether to be circulated to all Benches ? No


(SIGNATURE)

MANISH/

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO.1237 OF 1997

Allahabad, this the 4th day of May, 1999.

CORAM : Hon'ble Mr.S.K.Agrawal, Member(J)

Munna Lal Srivastava,
S/o. Late Shri U.S.Srivastava,
R/o. Humanyunpur (South),

Gorakhpur

.....Applicant.

C/A Shri S.K.Om, Advocate.

Versus

1. Union of India, through the General Manager,
N.E.Railway,
Gorakhpur.
2. Chief Personnel Officer, N.E.Railway,
Gorakhpur.
3. Senior Divisional Personnel Officer,
N.E.Railway, Lucknow.
4. Chief Commercial Superintendent,
N.E. Railway, Gorakhpur.

.....Respondents.

C/R. Shri G.P.Agrawal, Advocate.

O R D E R

(By Hon'ble Mr.S.K.Agrawal, Member(J))

In this original application the applicant makes a prayer to quash the order dated 3-9-97 passed by respondent No.3 and to direct the respondents not to transfer the applicant from N.E.Railway to East Central Railway, Samastipur.

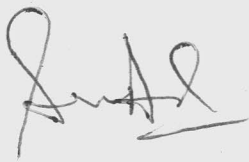
2. Vide impugned order dated 3-9-97 the applicant was transferred from Lucknow Division to Samastipur

Division on administrative grounds after getting approval from General Manager, Gorakhpur.

3. Applicant is T.T.E. Grade-I. The case of the applicant is that he was transferred from one Railway to another Railway in contravention of rules and order dated 3-9-97 is wholly arbitrary, illegal and without jurisdiction. Applicant filed representation on 18-9-97, but with no result.

4. This Tribunal vide order dated 26-11-97 passed an order to maintain status-quo with regard to impugned order of transfer.

5. Counter was filed. It is admitted in the counter that six zones were formed. But it is stated that newly created zones have not become fully functional. It is also stated that impugned order of transfer was issued in compliance of the order of General Manager(Personnel) Gorakhpur, and the applicant was transferred on administrative grounds. Therefore, question of seeking for option does not arise in the instant case. Respondents therefore stated that impugned order of transfer is not arbitrary, illegal and without jurisdiction, therefore, this original application is devoid of any merit and liable to be dismissed.



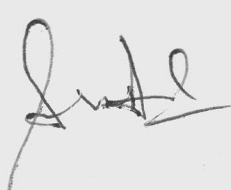
6. Rejoinder was filed, reiterating the facts stated in the original application.

7. Learned lawyer for the applicant has argued that applicant was transferred not by the competent authority, therefore, impugned order of transfer is

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arbitrary, illegal and without jurisdiction. On the other hand learned lawyer for respondents during the course of arguments has submitted that the impugned order of transfer was issued by the competent authority, therefore, it is perfectly legal.

8. Admittedly the applicant was working as T.T.E. (Grade-A) at Gorakhpur before the impugned order of transfer was issued on 3-9-97. It is also not disputed that six new zones were created vide order dated 30-4-97 issued by Railway Board including North Central Zone, at Allahabad and East Central Zone having its head-quarter at Hazipur. On the perusal of order of transfer at Annexure-5 it is evidently clear that applicant has been transferred on administrative ground and a post was also transferred along with the transfer of the applicant. It also appears that the impugned order of transfer was issued by Divisional Railway Manager (P) Lucknow with reference to the order of General Manager(P) Gorakhpur dated 3-9-97. It is pertinent to mention that transfer on administrative grounds are done by the Headquarter and Railway Board has nothing to do with these transfers. Therefore Railway Board circular dated 1-10-71 is not applicable in the instant case. On the perusal of the whole record it appears that competent authority has issued the order to transfer the applicant in administrative interest, and therefore, the impugned order of transfer ^{was} issued by Divisional Railway Manager (P) Lucknow. In my opinion impugned order of transfer does not appear to have issued by an authority having no jurisdiction. Therefore, impugned order of transfer is neither illegal nor arbitrary.

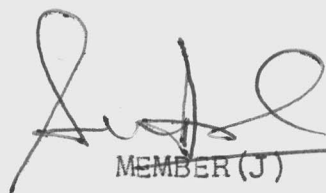


9. In State of M.P. Vs. S.S.Kaurav 1995 SCC 666 and in Rajendra Ray Vs. Union of India 1993 (L&S) 138 Hon'ble Supreme Court observed that transfer order which is not malafide and not in violation of service rules and issued with proper jurisdiction cannot be quashed by the Court. In N.K.Singh Vs. UOI (1994) 28 ATC 246 the Lordship of the Hon'ble Supreme Court in para-2 of the judgement had inter-alia observed that only realistic approach in transfer matter is to leave it to the wisdom of the superiors to take the decision unless the decision is vitiated by malafides and in violation of any professed norms or principles governing the transfer which alone can be scrutinized judicially.

10. In the instant case no such violation of statutory rules appears to have been done and no malafides are imputed against the respondents. Therefore, I do not find any ground to interfere in the impugned order of transfer.

11. I, therefore, dismiss this original application and interim order issued on 26-11-97 stands vacated.

12. No order as to costs.


MEMBER (J)

satya/