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OPEN COURT

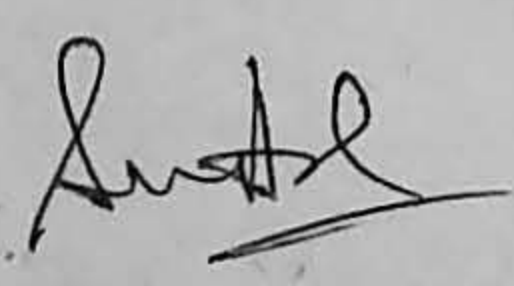
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1096 of 1997

Allahabad this the 24th day of September, 1998

Hon'ble Mr. S.K. Agrawal, Jud. Member

1. Girraj S/o Mitthu,
2. Bhagwant Singh S/o Bhikhchand,
3. Islam S/o Kalua
4. Laxmi Singh S/o Dau Dayal,
5. Gyani S/o Chasni,
6. Bachchu Singh S/o Ram Phool
7. Hari Singh S/o Chetta,
9. Udai Singh S/o Jag Prasad,
10. Puran S/o Fooshia
11. Goor Singh S/o Jalim Singh
12. Ramdin S/o Gariba
13. Suresh Chandra S/o Dori Lal
14. Mohra Singh S/o Fayyadi
15. Godan Singh S/o Lori Singh
16. Nanhey Khan S/o Shyama
17. Lakhan Singh S/o Dhoom Singh
18. Karan Singh S/o Mohan Lal.
19. Rabindra Singh S/o Roshan Singh
20. Bhagwan Singh S/o Gokul
21. Vijai Pal S/o Shitlu,
22. Mahtab Singh S/o Lala Ram
23. Ranbir Singh S/o Surendra Singh
24. Nawab S/o Shibbu,
25. Sirmour S/o Mani Ram,
26. Devendra Singh S/o Narotam Singh,
27. Bharat Singh S/o Budhai,
28. Vijai Singh S/o Dungar,
29. Narayan Das S/o Tulai.
30. Alisha S/o Karoma,
31. Karan Singh S/o Brij Lal
32. Teji S/o Subbi,
33. Bachchu S/o Babu lal
34. Charan Singh S/o Bipati Ram.



35. Vishnu Prasad S/o Rabhubir.
36. Biri Singh S/o Badle.
37. Chhito Son of Shiv Charan Lal.
38. Gaura S/o Bhagwat,
39. Jhokam S/o Mangi,
40. Tulsi Das S/o Champa Ram,
41. Birjo S/o Bhinnob,
42. Ram Gopal S/o Babu Lal,
43. Sugam Singh S/o Pahga
44. Narayan Singh S/o Lal Singh
45. Bhagwan Singh S/o Dhoop
46. Kali Charan S/o Ramjoo,
47. Vijai S/o Bhupal,
48. Om Prakash S/o Damodar,
49. Ram Autar S/o Sahdev,
50. Rajendra Singh S/o Hukam Singh,

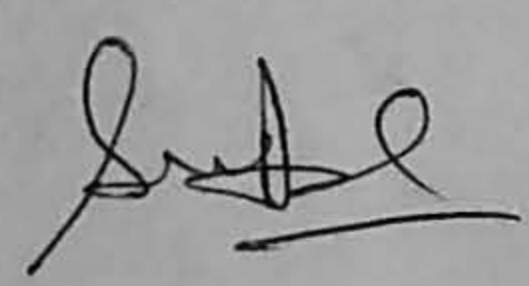
All C/o Shri Surendra Singh, President
Rashtriya Chaturth Shreni Rail Mazdoor
Congress (INTUC) 43/16 Sec. 15A, Sector-16,
Sikandra, Agra-282007.

.....Applicants

By Advocate Sri Arvind Kumar

Versus

1. Union of India through the General Manager,
Central Railway, Mumbai
2. The Divisional Railway Manager, Central Railway,
Jhansi Division, Jhansi.
3. Senior Divisional Engineer, Central Railway,
Jhansi.
4. Senior S.EN(N), P.W. Central Railway, Agra Cantt.,
Agra.



.....Respondents

By Advocate Sri D.C. Saxena

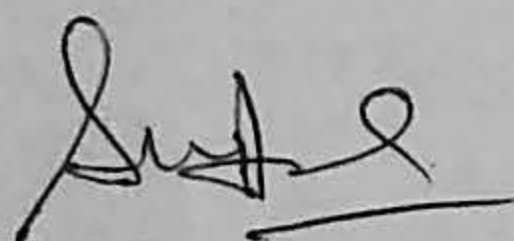
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O R D E R (Oral)By Hon'ble Mr. S.K. Agrawal, Member (J)

In this O.A., the prayer of the applicants is to quash the order dated 02.10.1997 and direction to respondents not to transfer the applicant from Agra to Pama railway station in pursuance of the order dated 02/10/97.

2. In brief the case of the applicants is that applicants have been transferred on the ground of malafide and in order to harass the applicants who through their Union raised the dispute and whose favour the award was given. It is submitted that the respondent no.4 vide order dated 02/10/97 directed the authorities to relieve the applicants on 03/10/97 without making any order for payment of transfer allowances and other allied benefits. It is further stated that applicants should have not been transferred on arbitrary basis. It is, therefore, requested that impugned order of transfer dated 02/10/97 be quashed.

3. The counter-affidavit was filed. In the counter, the ground of malafide was totally denied. The transfer of the applicants from Mathura to Gwalior in the year 1993 is not relevant for this controversy. It is stated that petitioners would be paid transfer allowance etc. only when they joined at Pama. Incase they do not choose to join, they are not entitled for the allowances permissible under the rules. In this way, on the basis of counter-affidavit filed by the respondents, the respondents have requested to dismiss this O.A. with cost.



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4. The rejoinder has been filed by the applicants in this case. In the rejoinder, the facts mentioned in the O.A., have been reiterated.

5. I heard the arguments of both the parties and perused the whole record.

6. From the perusal of the pleadings of both the parties, it is not at all established that behind the impugned order of transfer, there was malafide on the part of the respondents. The applicant did not implead anybody as party to the litigation against whom malafides are imputed. In the absence of impleadment of any person as party, malafides cannot be held to be established against the respondents. Thus, order of transfer which has been challenged on the ground of malafides cannot be quashed as it is not at all established from the pleadings of the parties.

7. On behalf of the respondents, M.A. No. 1421/98 was also submitted on 04/5/98 with the averments that since number of petitioners have requested to Assistant Engineer, Central Railway, Kanpur vide their applications dated 11.2.98, that they are now willing to carry out the aforesaid transfer order dated 02.10.97, this O.A. has become infructuous. The photocopy of the application signed by so many petitioners has also been annexed with this application.

8. Since the applicants failed to establish a case of malafide in order to quash the impugned order

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of transfer, therefore, there is no need to say whether the application has become infructuous or not.

9. Since the applicants failed to establish a case of malafide, which was the main ground for quashing this transfer order, this O.A. is dismissed with no order as to costs.


Member (J)

/M.M./