

RESERVED

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

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Allahabad : Dated this 18th day of December, 1998

Original Application No.179 of 1998

District: Bijnore

CORAM:-

Hon'ble Mr. S.K. Agrawal, J.M.

Lushyant Kumar
S/o Sri Shanti Singh Rajpoot,
R/o Ranibag Colony, Thampur,
District Bijnore

(Sri O.P. Gupta, Advocate)

.Applicant

Versus

1. Union of India through General Manager,
Northern Railway, Barado House, New Delhi,
2. Senior Divisional Operating Manager,
in the Office of Divisional Railway Manager,
Northern Railway, Moradabad Division,
Moradabad,
3. Sri M.C. Sharma,
Station Superintendent, Railway Station,
Thampur (Northern Railway), Thampur.

(Sri Prashant Mathur, Advocate)

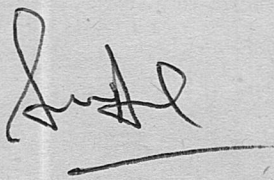
. Respondents

O R D E R

By Sri S.K. Agrawal, J.M.

In this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes prayer to quash the impugned order of transfer dated 24-1-1998 by which the applicant has been transferred from Thampur to Kafurpur.

2. In brief the facts of the case as stated by the applicant are that the applicant is working as Assistant Station Master at Thampur and by the impugned order of transfer dated 24-1-1998 he has been transferred from Thampur to Kafurpur. The main grievance of the applicant against this order of transfer is that the applicant has personal difficulties to go on transfer during the mid session. His parents are in old age



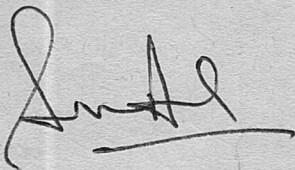
and are suffering from serious disease. The father of the applicant is a heart patient and his mother is a patient of diabetes. Both are getting treatment at Dhampur. It is also the grievance of the applicant that he has been transferred in the mid academic session. His elder son is a student of Intermediate (12th Class). So he has to appear at the Board Examination whereas his another son is a student of 10th Class. If this transfer is effected, education of the children will be effected. The applicant submitted his representation before the respondent no.2 on 29-1-1998 through registered post stating full facts and reasons therein but with no results. It is also stated by the applicant that the applicant himself is also under the medical treatment of Dr. Arvind Kumar Singh, MBBS at Dhampur since 24-1-1998 and the applicant is advised for rest upto 22-2-1998. The applicant has stated that it is settled law that the personal difficulties of the employees should be considered while making his transfer and during mid academic session the employees should not be transferred. But the respondents have transferred the applicant arbitrarily and with malafide motive and in violation of the relevant Railway Rules. Personal difficulties of the applicant have not been considered while transferring the applicant by the impugned order. Therefore, it was requested that the impugned order of transfer dated 24-1-1998 be quashed and the respondents may be directed not to disturb the applicant from his present post.

3. A counter was filed by the respondent nos.1 and 2. In the counter it is stated that the impugned order of transfer ^{was} passed in administrative exigencies and it was denied that the applicant was transferred

arbitrarily and with malafide intention. It is further stated that the impugned order of transfer was issued in the exigencies of service and not in violation of any administrative directions issued by the Railway Board and it is not punitive in nature. The applicant can request the administration for retention of Railway accommodation provided to the applicant and his request for any change can be considered only when the employee carries out his transfer and requests for such a change. It is also stated that for the Assistant Station Master almost at every station Railway accommodation is provided. It is further stated that the applicant is in habit of gross indiscipline, insubordination and had threatened the Station Superintendent and Railway Board has provided to transfer the Railway employees after every four years. The applicant has already availed a period. Therefore, the allegation of malafides cannot be sustained by the applicant without impleading the individual by name. Therefore, none of the grounds taken by the applicant in the instant application is tenable. It is, therefore, submitted that this OA may be dismissed with costs.

4. Heard learned counsel for the applicant and learned counsel for the respondents and perused the whole record carefully.

5. The applicant has challenged the impugned order of transfer on account of his personal difficulties. The departmental authorities are the best judge for redressal of the grievance of an employee regarding his personal difficulties. The applicant is free to file fresh representation stating his personal difficulties, if any, to the departmental authorities and the departmental authorities are required to give sympathetic consideration to the grievance of the applicant if the same is feasible in the exigencies



of administration.

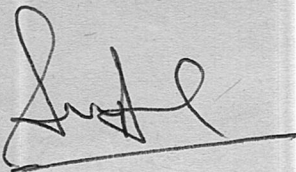
6. The other ground which the applicant has taken is that he has been transferred arbitrarily or malafidely is also not tenable. No arbitrariness could be established by the applicant in this OA. No malafides could be established by the applicant. No one has been impleaded as a party in this OA against whom any malafide could be imputed. Therefore, the ground of malafide which the applicant has taken is not at all established, in the absence of impleadment of any party or in the absence of a specific allegation against the respondents.

7. As regards transfer in the academic session is concerned, the ground of the applicant has become infructuous. The applicant was transferred in the month of January, 1998 and that the academic session is already over.

8. In view of the foregoing discussion I am of the considered opinion that the applicant has no case for interference by this Tribunal in the impugned order of transfer.

9. Learned counsel for the applicant has submitted that necessary direction may be given to the respondents the departmental authorities for considering the case of the applicant, if he files a representation before the departmental authorities for redressal of his grievance on account of his personal difficulties.

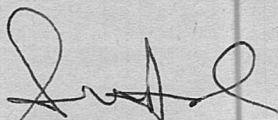
10. I also heard learned lawyer for the respondents and after hearing both the parties, it is provided that in case the applicant files representation for



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redressal of his personal difficulties before the departmental authorities. The departmental authorities should give sympathetic consideration towards grievance of the applicant and may pass necessary orders in this connection.

10. In view of the foregoing, this OA is dismissed with no order as to costs.


Member (J)

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