

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 7th day of October 1998.

Original Application no. 640 of 1998.

Hon'ble Mr. S. Dayal, Administrative Member
Hon'ble Mr. S.L. Jain, Judicial Member.

V.D. Bhaskar, S/o Late Shri L.L. Bhaskar, r/o Traffic Railway Colony, House no. 634 B Smith Road, Allahabad, presently posted as Lab Superintendent, N.R. Railway Hospital, Allahabad.

... Applicant.

C/A Shri S.C. Kushwaha

Versus

1. Union of India through the Secretary Ministry of Railway, New Delhi.
2. The General Manager, N.R. Baroda House, New Delhi.
3. Chief Medical Superintendent N.R. Divisional Hospital Allahabad.
4. Sr. D.M.O. (Pathology), N.R. Hospital, Allahabad.
5. Dr. (Smt.) P.L. Verma, C.M.S., N.R. Hospital, Allahabad.
6. Dr. B.L. Singh, Sr. D.M.O., (Pathology), N.R. Hospital, Allahabad.

.... Respondents.

C/R Shri S.K. Jaisawal.

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Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant seeks the following reliefs in the application:-

- i. Quashing of suspension order dated 15.04.98 and charge sheet dated 15.05.98.
- ii. A direction to the respondents not to interfere in the peaceful functioning of the applicant as Lab Supdt. in N.R. Divisional Hospital, Allahabad.
- iii. Costs of the application.

3. The facts as mentioned by the applicant are that the applicant was appointed as a Lab Technician in Bikaner on 14.10.70 and worked there till 30.04.80. He was transferred as Assistant Chemist to Moradabad in May 1980, and thereafter, to Allahabad in May 1982. He was transferred due to bias of Dr. (Smt.) P.L. Verma, Chief Medical Supdt. N.R. Hospital, Allahabad to Kanpur on rotational basis and was spared to work in Kanpur on 23.08.94. He was again transferred to work in Kanpur on 14.07.95. The applicant filed a writ in the High Court and got the order stayed on 28.09.95. The respondents issued S.F. 11 to the applicant whereupon he filed contempt petition no. 1637 of 1995. The new C.M.S. and Sr. D.M.O. again transferred the applicant on rotational basis to Tundla. The applicant made a representation but S.F.5 has been issued to him. The applicant has also mentioned that he was suspended once

which was stayed by the High Court and yet he has again been suspended. The applicant has alleged malafides on part of the respondents and fear of his removal by them.

4. The arguments of Shri S.C. Kushwaha for the applicant and Shri Sudhir Jaisawal for the respondents have been heard. The pleadings on record have been considered.

5. As far as the order of suspension dated 15.04.98 is concerned, the applicant has mentioned that it was issued after the first order of suspension was stayed by the High Court. The respondents have mentioned in their counter reply that the applicant has not filed any documents that he was previously suspended or that it was stayed by the High Court. This is true. The applicant mentions the issuance of S.F. 11 and Suspension order and mentions the date as 17.10.95. But there is no suspension order of 17.10.95 annexed to O.A. or R.A. As a matter of fact, there is only one suspension order annexed to the O.A. which is the impugned suspension order dated 15.04.98. The second plea taken by the applicant for challenging the validity of impugned suspension order is that the order could not have been passed in the wake of stay on the order of rotational transfer by the High Court. The interpretation given by the applicant to the stay granted by the High Court on 28.09.95 seems to be that all rotational orders pertaining to the applicant have been stayed by the High Court. This is incorrect. Only impugned order dated 14.07.95 is stayed by the High Court and that relates to the transfer of the applicant to Kanpur on a permanent basis till some other chemist is posted in the Food Lab of Kanpur. As a matter of fact order dated 04.10.95 asking Shri V.D.

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Bhaskar to work in Kanpur for relief arrangements for three days a week was not stayed by the High Court. The letter dated 15.07.98 of Respondent no. 5 annexed by the applicant to his rejoinder affidavit as RA-1 shows that the writ petition has been dismissed by the High Court and stay order vacated on 14.07.98. Respondent no. 5 has made it clear in the letter dated 15.07.98 that the proposal dated 14.07.95 remained as a note only and no order was passed in view of the stay granted by the High Court and the proposal to transfer the applicant to Kanpur was dropped. Hence, the order of 03.04.98 asking the applicant to work once a week ^{not} stayed by the High Court and the nonobedience of the order by the applicant ~~sustained~~ all the disciplinary consequences.

6. The applicant has alleged malafides on the part of respondents no. 5 and 6 but he has not produced any evidence to establish such a bias and the conduct of respondents no. 5 and 6 ^{as} seen from the pleadings on record does not show any bias. Respondents no. 5 and 6 have acted properly and within the ambit of the powers vested in them. The applicant has alleged that they have violated orders of the Railway Board but has failed to produce any order of the Railway Board which has been violated. We find no bias or arbitrariness on the part of the respondents in asking the applicant to work once a week on the vacant post in Tundla along with others on rotational basis.

7. The second relief sought by the applicant is a direction to the respondents not to interfere with the peaceful functioning of his job as Lab Supdt. in N.R. Hospital Allahabad. The relief has been sought on the ground that

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the order of the respondents that the applicant shall work once a week in Tundla amounts to transfer which had been stayed by the High Court. We have already seen that temporary assignment of duties to work once a week in Tundla does not amount to transfer which was stayed by the High Court. The respondents were well within their rights to assign such duties to the applicant and this was clearly done in public interest.

8. We find no merits in the application and the applicant is not entitled to any relief sought for by him in the application. The O.A. is, therefore, dismissed.

9. There shall be no order as to costs.

S. J. S.
Member-J

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Member-A

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