

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

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Original Application No. 1079 of 1998

this the 10th day of January 2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

T.P.Sharma, S/o late M.L. Sharma, Working as Coaching Supervisor, Hathras Jn. Railway Station, Hathras.

Applicant.

By Advocate : Sri Arvind Kumar.

Versus.

1. Union of India through the General Manager, N.R.,
Baroda House, New Delhi.
2. Divisional Railway Manager, Allahabad Division, N.R.,
Allahabad.
3. Divisional Commercial Manager, N.R., Allahabad.

Respondents.

By Advocate : Sri P. Mathur.


O R D E R (ORAL)

By this O.A., the applicant has challenged the transfer order dated 21.9.98 whereby he alongwith five other persons was transferred on administrative grounds to different places and the applicant was placed at sl. no.1 who was transferred from Hathras to Lucknow Division.

2. The case of the applicant is that this transfer was punitive in nature as it was done pursuant to the letter issued by the Vigilance Department and in similar circumstances, the person at sl. no. 5 namely Rajesh Sharma had also challenged the same order by filing O.A. No. 1078/98 on the same grounds that ^{it is} was punitive in nature and if there was any vigilance enquiry or raid conducted ^{he} on the person concerned, ~~it~~ could not have been transferred out

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by way of punishment instead, ~~of~~ an enquiry should have been held against the person. In the said O.A. namely 1078/98 the applicant- Rajesh Sharma was also working at Booking Counter and during the checking, he was caught by the vigilance team for excess charging of Rs.30/- from decoy passenger and Rs.5/- was found excess in the Government cash. On the recommendation of the vigilance department, he was placed under suspension vide letter dated 18.8.98. The same was revoked on 22.8.98 and he was transferred from Aligarh Station of Allahabad Division to Moradabad division. The Tribunal had been pleased to quash the order in respect of Sri Rajesh Sharma vide order dated 17.4.2001. The applicant also relied-upon an another judgment passed by this Tribunal in O.A. no. 1179/99 wherein in similar circumstances the transfer order in respect of Sri A.K. Srivastava, Ticket Collector was quashed when he was transferred from Kanpur i.e. Allahabad Division to Lucknow Division on administrative grounds. The applicant's counsel has submitted that in the instant case also the applicant was working as Parcel Supervisor when a raid was conducted and pursuant to the report of the Vigilance Department, he was placed under suspension on 18.9.98. The suspension of the applicant was revoked on 22.9.98 and by the impugned order, he was also transferred from Hathras to Lucknow division on the report submitted by the Vigilance Department. The applicant had approached the court and the Tribunal was pleased to grant status quo vide its order dated 6.10.98, which was confirmed by a detailed order dated 5.11.98 by observing that the transfer order cannot be resorted to as a softer option to avoid disciplinary action for the misconduct when it so warranted. It is further submitted by the applicant that thereafter he was served with a chargesheet also, but vide final order dated 18.1.2001, the applicant was informed that he has been exonerated from the charges levelled against him vide



memorandum dated 26.6.99, a copy of the order is taken on record as produced by the applicant's counsel. He has, thus, submitted that since the very basis of issuing the transfer order itself is washed-out after holding a detailed enquiry, the impugned order is not sustainable in law.

3. I have heard both the counsel and perused the pleadings as well.

4. In the judgment, as referred to above, it is seen that the Tribunal had already quashed the same order pertaining to Sri Rajesh Sharma and in the instant case since the applicant has already been exonerated after holding a detailed enquiry, and admittedly the basis of transferring him from Hathras to Lucknow Division was the report of the Vigilance department, I think that this case is better placed than that of Sri Rajesh Sharma, as mentioned above. The Tribunal had already granted the stay to the applicant, therefore, the impugned order was not given effect to as far as the applicant is concerned and now that he has already been exonerated from the charges made against him, I do not see any justification to uphold the impugned order as far as the applicant is concerned. Accordingly the order dated 21.9.98 is quashed so far it relates to the applicant.

5. For the above reasons, the O.A. is allowed with no order as to costs.



MEMBER (J)

GIRISH/-