

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 743 OF 2001
ALLAHABAD THIS THE 23rd DAY OF January 2003

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

R.K. Gandhi,
Son of Late Ram Das,
working as Head Parcel Clerk,
Jhansi Railway Station,
Jhansi.

..... Applicant

(By Advocate Shri Arvind Kumar : Absent)

Versus

1. Union of India,
through the General Manager (Central Railway),
Kshatrapati Shivaji Terminus,
Mumbai.
2. Divisional Railway Manager,
Jhansi Division,
Central Railway,
Jhansi.
3. Divisional Railway Manager (P),
Jhansi Division,
Jhansi.

..... Respondents

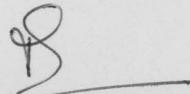
(By Advocate Shri K.P. Singh) : 20

ORDER

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

By this O.A., the applicant is challenging the order dated 8/14.06.2001 by which he has been transferred from Jhansi Division to Solapur Division on administrative grounds (Page 21).

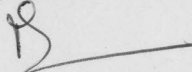
2. It is submitted by the applicant that he was working as Head Booking Clerk, Gwalior, when a raid was conducted by the vigilance on 24.06.1999. It is alleged that he charged Rs.99/- in excess which was found in his cash. Accordingly, SF-5 dated 11.10.99 was issued to him for his mis-conduct. After enquiry was concluded, the charge was held to be partly proved (Annexure A-3). It is submitted by the applicant that even though the charge was not proved substantially, yet the disciplinary authority imposed a penalty of reduction in the same pay scale by two stages below for a period of three years with



cumulative effect (Annexure A-4). It is further submitted by the applicant that his transfer was only as a consequence of the said penalty, therefore, it is punitive in nature, otherwise there is no justification to transfer him from one division to another division. He has relied on Railway Board's letter dated 6.7.78 whereby it was made clear that transfer of Scheduled Caste and Scheduled Tribes employees should be confined to their native districts or adjoining districts or places where the administrative can provide quarter and they should be transferred very rarely (letter quoted at page 7 of the O.A.). He has, thus, submitted that the applicant could not have been transferred from one division to another. More-over as his wife is working at Jhansi and he has his ailing mother to look after. He has, thus, claimed the following relief(s):

- "(i) That the respondents may be directed to bring up the records of the case and get the order dated 8/14.6.2001 passed by the respondent no.3 quashed;
- (ii) That the respondents may be directed not to interfere in the working of the applicant as Head Parcel Clerk at Jhansi Jn. Railway Station under Jhansi Division of Central Railway.
- (iii) -----
- (iv) -----"

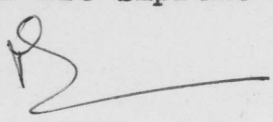
3. The O.A. is opposed by the respondents, who have submitted that the applicant has been transferred on administrative grounds and as far as the Railway Board's letter is concerned with regard to the posting of Scheduled Caste and Scheduled Tribes Personnels, they have relied on J.T. Vol.3 1997 444 in re. Laxmi Narain Mehar Vs. Union of India & others wherein this very point was raised and the apex court had held that convenience of officers for posting near home town is to be seen, yet the transfer on administrative exigencies cannot be ruled-out. Therefore, it was held that no interference was called-for. The judgment given by the Tribunal whereby the O.A. was dismissed was infact upheld by the Hon'ble Supreme Court. Of-course the appellant therein was given liberty to make a



representation on merits before the appropriate authorities. The respondents have, thus, submitted that the transfer is an incidence of service and his transfer on administrative grounds cannot be co-related with the penalty for his mis-conduct committed by the applicant, while ^{has been made} transfer/on administrative grounds. As far as the contention of the applicant that his wife is posted at Jhansi, therefore, he should also be retained at Jhansi, the respondents have relied upon the decision given by the Hon'ble Supreme Court in the case of S.L. Abbas. Since

4. Since none was present on behalf of the applicant, I have heard the respondents' counsel and perused the pleadings and proceeded to decide the case on merits by attracting Rule 15(1) of CAT (Procedure) Rules, 1987.

5. The applicant's counsel has mainly relied on Railway Board's letter dated 6.7.78. I have seen the judgment relied-upon by the respondents' counsel as mentioned above and find that the Hon'ble Supreme Court had an occasion to deal with this very letter and after discussing everything, the Hon'ble Supreme Court held that it is true that as far as possible the convenience of the officers belonging to Scheduled Caste and Scheduled Tribes may be considered and they may be posted at their home town, but the authority has the power to transfer them when the administrative need arises. Since the appellant has been transferred on account of administrative exigencies, no interference was called-for. I think that the present case in hand is fully covered by the judgment given by the Hon'ble Supreme Court, as referred to above. Even the contention with regard to his wife working at Jhansi, the Hon'ble Supreme Court had held in the case of S.L. Abbas(supra) that instructions are not mandatory, therefore, the same cannot be enforced in court of law. It is also held by the Hon'ble Supreme Court that courts



should not ordinarily interfere in the matter of transfer unless the transfer is hit by malafide or is contrary to the statutory rules. In the instant case, it is seen that the applicant was penalised for his mis-conduct committed by him and he has not challenged the said order in the present O.A., therefore, I need not go into the correctness of that order. As far as the transfer is concerned, the applicant has himself annexed the Railway Board's letter dated 30.10.98 which permits inter-divisional transfer of staff repeatedly figured in vigilance case. Admittedly, the applicant had figured in the vigilance case, therefore, if he has been transferred from one division to another, it is very much within the competence of the respondents to do so. The virus of the letter dated 30.10.98 has not been challenged and so long the respondents have acted within the parameter of the letter issued by the Railway Board ^B though ~~no~~ ^{no} irregularity cannot be said to have been found in the transfer order. More-over, the respondents have also submitted that the applicant had already ^{been} ~~re~~ ^B lived on 5.7.2001 and I am sure that he must have ^{been} ~~been~~ joined at new place of posting. Incase he has valid and genuine grievance, he can always make a representation to the authorities .

6. In view of the above discussions, no interference is called-for ^B ~~and~~ as such the O.A. is dismissed with no order as to costs.



MEMBER (J)

GIRISH/-