

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1203 OF 2004

ALLAHABAD, THIS THE 08th DAY OF OCTOBER, 2004

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

Asha Ram son of Shri Chunni Lal,
Resident of Nehru Nagar,
District-Lalitpur.

.....Applicant

(By Advocate : Shri Islam Ahmad)

V E R S U S

1. Union of India through General Manager,
North Central Railways, Allahabad.
2. The Divisional Railway Manager,
Northern Central Railways, Allahabad.
3. Assistant Signal & Telecom Engineer,
Northern Central Railways, Jhansi.
4. Mr. V.C. Nafrey, Senior Section Engineer
(Signal), Lalitpur.

.....Respondents

(By Advocate : Shri A.K. Gaur)

O R D E R

By this O.A. applicant has sought quashing of the transfer order dated 15.09.2004 and adverse remarks dated 23.07.2004.

2. The brief facts as stated by the applicant are that he has been transferred from Faridabad to Lalitpur under respondent No.4 on 17.01.2003, who was compelling the applicant to do some domestic work. Applicant refused to do



the extra domestic work as he is affected patient of Carbide Gas Bhopal 1984 as a result of which respondent No.4 does not even grant leave to the applicant to go to Bhopal for his treatment. On 23.07.2004 applicant applied for leave when respondent No.4 abused and beaten to the applicant. Simultaneously, he suspended the applicant and gave wrong reporting to respondent No.3 stating that applicant had misbehaved with respondent No.4. Applicant was also given adverse remarks in the character role without giving any notice and opportunity which is absolutely wrong illegal and is against the principle of natural justice.

3. It is submitted by the applicant that only because of annoyance of respondent No.4 that respondent No.2 transferred the applicant from Lalitpur to Manikpur vide the impugned order dated 15.09.2004. It is submitted by the applicant that his son Rahul studying in Class VIIth in Saraswati Gyan Mandir, Nehru Nagar, Lalitpur and his daughter is also studying in Class Vth in Basic Primary School, Nehru Nagar Lalitpur and if he ~~has~~ transferred out in the Mid-academic session, his children would not get admission in the place of posting. He has, thus, prayed that both the orders as stated above may be quashed and set aside.

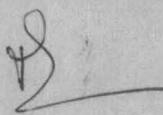
4. Perusal of Annexure-2 shows that it is a S-F issued to the applicant and cannot be said to be adverse remarks as stated by the applicant. If applicant has been given chargesheet, he has to give reply to the said charge-sheet and request for holding an enquiry. At the stage of charge sheet, court cannot interfere. Therefore, it is open to the applicant to contest the charges made out against him.



5. As far as the transfer of the applicant is concerned, it is seen that applicant ~~did~~ not file any representation against his transfer order whereas Hon'ble Supreme Court has repeatedly held that whenever a person is aggrieved by the transfer order, he must give representation to the next higher authority placing his difficulties on record or any other grounds, which are available to him in law to challenge the said transfer so that the next higher authority may apply his mind to the grievances raised by the applicant and pass appropriate orders thereon.

6. I had asked counsel for the applicant whether applicant had given any representation against his transfer to the higher authorities to which counsel stated no such representation was given. However, he referred to a representation dated 26.07.2004 given by wife of the applicant addressed to the G.M., North Central Railway, Allahabad stating therein certain grievances, which was followed ^{by} another letter dated 06.08.04 and 19.08.2004 wherein she had narrated that her husband was being threatened for either being transferred out or even for being terminated but no reply was given to the said representation.

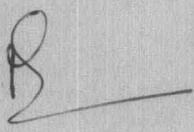
7. In transfer matters, the scope of interference is very limited and since applicant has ^{even B} not given any representation against his transfer order, I think it would be better if this O.A. is disposed off at the admission stage itself by giving directions to the respondent No.2 to treat this O.A. itself as a representation of applicant and to pass a reasoned and detailed order, after making relevant inquiries and after hearing the applicant on the issue. This shall be done within 3 weeks from the date of receipt of a copy of this order under intimation to the applicant.



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It is made clear that in case applicant has not already been relieved, respondents shall maintain statusquo as of today ^{which is to be} till the disposal of the O.A. itself ~~itself~~ treated as a representation.

8. With the above directions, this O.A. is disposed off with no order as to costs.


Member (J)

shukla/-