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OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.**

WEDNESDAY, THIS THE 4TH DAY OF APRIL, 2007.

QUORUM: HON. MR. P.K. CHATTERJI, A.M.

ORIGINAL APPLICATION NO. 958 OF 2005.

Anoop Kumar Sharma, Senior Booking Clerk, Son of, Sri Bhagwan Swaroop Sharma, Resident of, 31/244, Rawali Ward, Rakabganj, Agra.

..... Applicant.

Counsel for applicant : Shri S.K. Parwar.

Versus

1. Union of India through General Manager, Northern Central Railway Allahabad, Allahabad.
2. Divisional Railway Manager, Northern Central Railway, Agra Division, Agra.
3. Divisional Railway Manager (Personnel), Railway Agra Division, Agra.
4. Senior Divisional Commercial Manager, Railway Agra Division, Agra.
5. Divisional Commercial Manager Railways, Agra Division, Agra.
6. Divisional Commercial Inspector, Northern Central Railway, Agra Fort Railway Station, Agra.
7. Station Manager, Agra Fort, Northern Central Railway, Agra.
8. Chief Parcel Supervisor, Agra Fort, Northern Central Railway, Agra.

..... Respondents.

Counsel for Respondents : Shri P. Mathur.

ORDER

The applicant was a Parcel/Booking Clerk working at Agra Fort Railway Station. He was proceeded against under Rule 9 of the Railway Servant (Discipline & Appeal) Rules, 1968 for major penalty by order dated 18.7.2005. The disciplinary proceeding

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was initiated by the Respondent No.5 i.e. the Divisional Commercial Manager, Railways, Agra.

2. At the same time, orders were also issued for his transfer from Agra Fort Railway Station to Sholaka vide order dated 17.6.2005. He was relieved from his post at Agra Fort on 18.6.2005. The order of transfer was issued on administrative ground.

3. In this O.A., the applicant has challenged the order for disciplinary proceedings as well as the order for transfer. The charge as per the statement of misconduct was that while working as Parcel Clerk at Agra Fort Station, the applicant gave a statement before the Deputy Labour Commissioner regarding employment of certain casual labours by the Respondents in violation of the specific direction of the Senior Divisional Commercial Manager, Kota dated 10.3.2000. The order for disciplinary proceedings has been challenged on the ground of malafide and ^{being} ~~is~~ irregular and unjust. The order for transfer has also been impugned on the same ground.

4. Counsel for the Respondents stated that the application is not tenable as being inconsistent with the provisions of Rule 10 of the C.A.T. Procedure Rules, 1987, which makes multiple relief and the same is inadmissible. In this O.A., the applicant has sought two reliefs, firstly, the relief of quashing the order for disciplinary proceedings and secondly, the order of transfer. Counsel for the Respondents has stated that the O.A. should be dismissed on this ground alone as being violative of Rule 10 of the C.A.T. Procedure Rules.

5. He has also stated that apart from the point of admissibility on the ground of multiplicity of relief, the present O.A. is not tenable for the reasons that the authority for disciplinary proceedings is an executive domain, which is not to be interfered with

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by the Tribunal. He has pointed out that the applicant had clearly violated the direction of the Senior D.C.M. as stated above and for that reason, the Respondents had to take suitable notice of such disobedience. Regarding the transfer, Counsel for Respondents has stated that the applicant was working at a stretch for 12 years at Agra Fort Station and, therefore, his transfer to other station cannot be stated to be irregular under any ground. Counsel for Respondents has further brought to my notice that the applicant had joined his new post at Sholaka on 28.8.2005. However, thereafter, he has not resumed duties. Counsel for applicant, however, stated that the applicant has applied for leave, as it would not be possible for him to work at the new station. He has also stated that the applicant made few representations for modification of the transfer order. However, the Respondents have not taken any decision so far of this request.

6. In course of hearing, the point, which was explained to the counsel for applicant is that the power to issue disciplinary proceedings against the applicant is not an area where the Tribunal can interfere. What the Tribunal can ensure is that the applicant is subjected to a fair trial. The Respondents have clearly brought out that the applicant was responsible for violation of the clear directives of the Senior D.C.M., a copy of which has been annexed. However, this has been controverted by the Counsel for applicant, who says that the applicant was not aware of the same order.

7. I am of the view that these are matters, which can be looked into and resolved by the inquiry, which will proceed under the proposal for disciplinary proceedings. It would not be proper for the Tribunal to interfere at this stage. Regarding the order for transfer also, the Counsel for applicant was advised to make a fresh representation before the Respondent

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No.5. Counsel for the applicant stated that he is not particularly insistent that he should be brought back to Agra Fort Railway Station. He is ready to be posted anywhere else but he has extreme difficulty for personal reasons to work at Sholaka. I am of the view that this is a request, which is quite modest and reasonable and the Respondents should be able to consider the request. With this consideration, it is hereby directed that the applicant will make a fresh representation for his posting at a station other than Sholaka before Respondent No.5 and the Respondent No.5, upon receiving the same representation, will consider the same and issue appropriate orders within a period of three months from the date of receiving a copy of the representation. *The relief as prayed for is, however, not allowed*

8. With the above direction, the O.A. is disposed of, with no order as to costs.

A.M.
A.M.

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