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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration D.A. No.768 of 1987

B.O.V.Rao Applicant

Versus

Union of India & Two Others ... Respondents

Hon. G.S.Sharma, J.M.

(By Hon.G.S.Sharma, J.M.)

This petition under Section 19 of the Administrative Tribunals Act XIII of 1985 was filed on 24.8.1987 challenging the transfer of the applicant from Moradabad to Ghaziabad. During the pendency of the petition the transfer to Ghaziabad was cancelled and the applicant was transferred to Allahabad and thereafter the transfer even to Allahabad was cancelled and the applicant was transferred to Ambala vide order dated 7.10.1987. The applicant was allowed to amend his petition to challenge his subsequent transfers.

2. The applicant was posted as Sr. D.S.T.E. (Senior Divisional Signal and Telecom Engineer) D.R.M. office, Northern Railway, Moradabad ~~from~~ 25.5.1981. Prior to that he was serving as Assistant Professor in Indian Railway Institute of Signal Engineering and Telecom at Secunderabad in the State of Andhra Pradesh. The case of the applicant is that one J.P.Bishnoi, a class III employee was working under him in the office

of SID-I Moradabad. On account of his ^{unsatisfactory} work and conduct he was transferred ^{by him} to Laksar in 1985 but by his manipulations and pressures on the D.R.M. Moradabad the transfer could not materialize. The said Bishnoi was later on promoted to the post of Head Clerk but on account of ^{his} carelessness and negligence, the applicant reverted him as Senior Clerk on 17.12.1986 and in the disciplinary proceedings taken against him, annual increments for three years of J.P. Bishnoi were stopped by the applicant. This annoyed him very much and in order to harm the applicant the said Bishnoi with the help of his relation Shyam Sunder Lal Bishnoi, retired D.P.O. of Northern Railway, he managed to lodge some false complaints against the applicant as a result of which certain raids were made by the Vigilance Establishment of the Railways at the place of the applicant and he was also interviewed by the Vigilance Inspector. Nothing substantial could however be found against the applicant and no chargesheet has been submitted by the Vigilance Department against the applicant so far. J.P. Bishnoi however did not leave the campaign against the applicant here and through his caste fellow and relative, ~~a~~ (named) Central Minister, he influenced the Railway Minister and in the mid session he got him transferred to Ghaziabad and thereafter to Allahabad and finally to Ambala.

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3. The further allegation of the applicant is that J.P.Bishnoi got a false and defamatory news items published regarding the applicant in the Hindustan Times and the applicant has filed a suit for damages to the tune of Rs. one lakh in the Court of Civil Judge, Moradabad for defamation against the aforesaid J.P.Bishnoi, S.S.L.Bishnoi and the Editor of the Hindustan Times and a criminal complaint under Section 500/120-B Indian Penal Code against them in the Court of Additional Chief Judicial Magistrate, Moradabad. Two children of the applicant are studying in final years of Intermediate and B.Sc. at Moradabad and in case he is transferred from Moradabad at this stage the education of his children will suffer a lot and he will not be in a position to look after his litigation, as well as the investigation pending against him at the instance of the Vigilance organisation. It is further alleged that the transfers of the officers ordered to be transferred to Moradabad in his place from Ghaziabad ^{and Allahabad} have been cancelled by the administration but the same courtesy has not been granted to the applicant and the fact that the transfers were made in the mid session and at the instigation and wire pulling of a class III employee of his Department under political pressure,

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the transfers have been made with malafide intention without any administrative exigency and J.P.Bishnoi is trying to create evidence against the applicant by winning ^{over some} ~~other~~ class IV employees working under the applicant and he will suffer a great loss and hardship in case he is transferred now. It is also alleged by the applicant that he is an honest hard working and efficient officer and he is being penalized at the instance of a class III employee of his Department without any just or good cause and unless his transfer to Ambala is stayed his future career will be seriously jeopardized.

4. Respondent No.2 is the General Manager of the Northern Railway and respondent No.3 is Chief Signal and Telecom Engineer of Northern Railway. The petition has been contested on behalf of the respondents and in the reply and supplementary replies filed on their behalf by R.L.Dhawan, Deputy Chief Personnel Officer, Northern Railway, it has been stated that every officer is supposed to maintain discipline in his office and work efficiently and honestly for his employer and as such no additional favour was done by the applicant if he maintained the discipline and worked honestly. The transfer of the applicant had nothing to do with any complaint against him and it was done in normal

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course. The transfer of J.P. Bishnoi to Laksar was revoked in the interest of Railway Administration and not under any pressure. Serious allegations have been made by the applicant against J.P. Bishnoi and S.S.L. Bishnoi and they are necessary parties to this petition and the Railway Administration is not supposed to reply to the allegations made about them by the applicant. The applicant paid more attention to J.P. Bishnoi than to his own work. He was not satisfied with his transfer order and thereafter reverted him from the post of Head Clerk to the post of Senior Clerk and then punished him by stopping increments. Nobody had taken ill for it and it had not entered in the decision to transfer the applicant from Moradabad to other places. No relationship of J.P. Bishnoi and S.S.L. Bishnoi and the Central Minister had been established and the allegations made by the applicant are far fetched and invented for the purpose of this case. It is not admitted that J.P. Bishnoi had made any false complaint against the applicant for raids by the Vigilance Organization. The transfer of the applicant has however been made on merit and not on account of any complaint or dispute with Bishnoi. The transfer of the applicant has not been grounded on any misconduct or anything adverse against him. It was merely on administrative grounds. The applicant has

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exceeded his normal tenure of four years at Moradabad and there is no valid ground for retaining him at Moradabad any longer. The applicant had approached the Railway Minister through Shri Raj Mangal Pandey, M.P. and the Minister had replied that the transfer order of the applicant was passed after due deliberation and discussion. It is likely that the applicant may temper with the evidence likely to be produced against him in the Vigilance cases though it was not the consideration at all while passing the order of the transfer. His retention at Moradabad is however not in the interest of the administration on account of the pending Vigilance inquiry against him. The transfers of the officers to replace the applicant were stayed on their personal and genuine difficulties and not on the ground of the education of their children. The applicant has been relieved from Moradabad and his successor Shri V.K.Mittal has joined there. The transfer of the applicant has not been made with any mala fide intention and it is not liable to be interfered with.

5. The applicant has given a list of eight officers of the Engineering Section of the Northern Railway who are posted at their respective stations for more than five years and it was stated ^{in his rejoinder} that his transfer was not made in the routine course and it

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being in the midst of the academic session is against the own policy of the Railways. His transfer has been made with ulterior motive under political pressure with a view to punish him on account of his tussle with J.P.Bishnoi who is a very influential person. He had successfully managed to get his transfer from Moradabad to Laksar cancelled under such pressure. The rule of four years stay at one station is not mandatory and is not strictly followed by the Administration. The letter of the (named) Central Minister to the Railway Minister for the transfer of the applicant is on the file maintained at the Headquarters of the Northern Railway and J.P.Bishnoi is trying to cause harm to the applicant in the Vigilance cases and it is a fit case for the cancellation of the transfer order.

6. I have very carefully considered the various contentions raised on behalf of the parties in the light of the materials placed on the record. Certain undisputed facts emerged from the pleadings of the parties. Firstly, the applicant is a hard working, efficient and honest officer. Secondly, his transfer from Moradabad does not apparently appear to have been made due to any complaint nor due to the pendency of the investigation made by the Vigilance Organization of the Railway against him.

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Thirdly, one J.P. Bishnoi was posted under the applicant as Senior Clerk. In 1985 he was transferred by the applicant, after obtaining the approval of the Divisional Railway Manager, to Laksar in public interest. Bishnoi, however, first managed to get his transfer stayed for few months in two instalments and thereafter got the same cancelled. Fourthly, the said J.P. Bishnoi, who was promoted as Head Clerk, was not only reverted by the applicant as Senior Clerk but was also punished by stopping his increments for three years. Fifthly, the vigilance raids appear to have been made against the applicant only after the aforesaid actions taken by the applicant against Bishnoi and no action or chargesheet has ^{yet} been finalized against the applicant as a result of the said raids.

7. It is also not in dispute that the usual tenure of posting for an officer at one station is four years and the applicant had already completed his tenure in May, 1985. There is however nothing on record to show that either on the completion of his tenure in 1985 or at any time in 1986 or at the usual time of annual transfers in May or June, 1987 the respondents ever considered the applicant for his transfer from Moradabad to any place. It appears that ~~at the instance of~~ the Union of the employees of the Department of the applicant had approached the

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Railway Minister through Shri Raj Mangal Pandey to intervene in the transfer matter of the applicant and the Minister had replied to Shri Pandey that the transfer of the applicant has been ordered in the administrative interest and in consideration of his personal difficulties, he has been posted at Ghaziabad which is quite close to Moradabad. It is a fact that despite the vigilance cases against the applicant, the Hon'ble Minister was so considerate with the applicant that on account of administrative reasons he posted him at Ghaziabad quite close to Moradabad ^{considering} ~~on account~~ of his personal difficulties. This fact shows that the applicant is not a ~~fair~~ ^{bad} person and despite all what has been said against him by the respondents in this case he has not fallen from the grace. It is true that every Govt. servant is supposed to maintain a high standard of integrity, efficiency and conduct. However, to give encouragement to such officers during these days of falling standards the administration has to consider not only their personal difficulties but also their honour and self respect. No honest or able officer, howsoever, honest or able he may be, cannot ^{be} ~~not~~ be allowed his promotion out of his number by jumping the queue but in matters of transfers and postings he should get atleast some consideration to boost ~~of~~ his moral specially when there are so called false allegations and counter allegations affecting his reputation and

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integrity. In case it is not done the honest and strict officers are liable to ^{be} demoralized which ^{is bound to} ~~will~~ adversely affect the general administration.

8. There are certain allegations made by the applicant, which remain unrebutted in this case. In para 6(ff) of the petition it has been alleged that J.P.Bishnoi is related to the named Central Minister and the said Central Minister had requested the Railway Minister by a written letter to get the applicant transferred from Moradabad to elsewhere and the said letter with the recommendation of the Railway Minister finds place in the record of the file of the applicant maintained in the office of the General Manager at Baroda House. In reply to these allegations the Deputy Chief Personnel Officer simply showed his ignorance in his counter affidavit and stated that the contents of paragraph 6(gg) are not admitted for want of knowledge. He denied the fact that ^{and} ~~this~~ Central Minister had exerted any influence over the Railway Minister but could not deny the fact that any such letter written by the Central Minister for the transfer of the applicant to the Railway Minister is on his file. The transfer of the applicant to Ghaziabad was cancelled ^{as} on account of medical reasons the officer at Ghaziabad ^{who} ~~was~~ ordered to replace the applicant was allowed to stay there. The transfer of the applicant to Allahabad

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was also cancelled as the officer required to be shifted from Allahabad requested for time upto February, 1988 as his wife is in family way. The fact that the administration did not like to accommodate the applicant at Moradabad even till February, 1988 and to get rid of him from Moradabad he was transferred to Ambala to a newly created upgraded post to avoid further cancellation of his transfer on similar grounds, goes a long way to show that the transfer order of the applicant is not merely on account of administrative reasons. In the matters of transfer the Tribunal generally does not interfere. However, in view of the tale-telling circumstances of this case I find that the transfer of the applicant has not been made in the normal circumstances in public interest or for administrative reasons and if he is allowed to complete the present session of his children at Moradabad it may not adversely affect the interest of the administration. According to the un rebutted allegations of the applicant no permanent arrangement for his substitute has been made at Moradabad so far despite the order of his relieving from Moradabad contained in the transfer order itself.

9. Under the circumstances, the petition is allowed to this extent that the applicant shall not be transferred from Moradabad to Ambala or any other place till 31.5.1988 or till the examinations of his

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two children are over whichever may be earlier. The Senior Clerk J.P. Bishnoi posted in the D.R.M. office Moradabad, if posted in any Section under the Department of the applicant, may be transferred to some other Section at Moradabad or elsewhere by the respondents to avoid the chances of any unpleasantness or conflict between the two. The parties shall bear their own costs of this petition.

Enchanna
18/11/87
Member (J)

Dated the 18th Nov., 1987

RKM