

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

O.A. No.  
I.A. No.

500

1990

DATE OF DECISION

R.N. Tiwari Petitioner

Dr. R.G. Padia Advocate for the Petitioner(s)

Versus

U.O. I. & others Respondent

S/Dr. Lalji Sankar & V.B. Upadhyay Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D.K. Agrawal, J.M.

The Hon'ble Mr. K. Ohayya, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

.....

Ghanshyam/

*He/Gen*

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

A 2  
102/1990

RESERVED.

Registration (O.A.) No. 500 of 1990.

R.N. Tiwari .... Applicant.

Versus

Union of India & others .... Respondents.

Hon'ble D.K. Agrawal, J.M.  
Hon'ble K. Obayya, A.M.

(Delivered by Hon. D.K. Agrawal, J.M.)

This application, under Section 19 of the Administrative Tribunals Act, 1985, is directed against the transfer order dated 19.6.1990 transferring the applicant from North-Eastern (NE) Railway, Gorakhpur to South-Eastern (SE) Railway, Calcutta on the post of Chief Passenger Traffic Superintendent (CPTS).

2. Briefly, the facts are that the applicant was posted as Chief Personnel Officer (CPO), NE Railway, Gorakhpur and transferred vide order dated 4.10.1989 as CPTS, SE Railway, Calcutta. On a representation made by the applicant, the transfer order was cancelled vide order dated 23.5.1990. However, by order dated 23.5.1990 the applicant was posted as CPTS, NE Railway, Gorakhpur instead of CPO. Again by the impugned order dated 19.6.1990 the applicant has been transferred on the same post as CPTS from NE Railway, Gorakhpur to SE Railway, Calcutta.

3. We have heard the learned counsel for the parties and perused the record including the confidential file containing the comments of Member (Traffic), Chairman, Railway Board, the then Minister of State for Railways, and the then Minister for Railways, i.e. Sri George Fernandes.

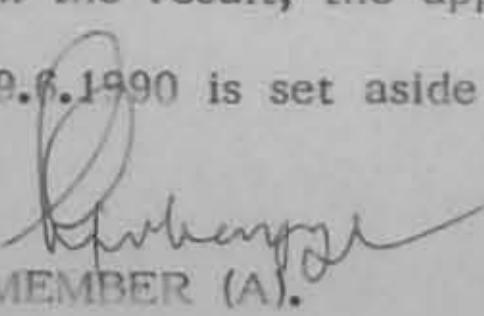
4. The applicant is to retire on 31.1.1991. Initially the applicant was transferred on the basis of a complaint from Vigilance.

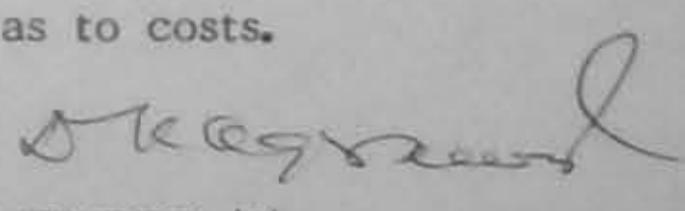
*D.K. Tiwari*

The applicant is also facing a disciplinary enquiry for major penalty for manipulating marks of certain candidates for promotion to Group 'B'. The posting of the applicant to the post of CPTS, SE Railway, Calcutta was made on the ground that he had to be shifted to a non-sensative post. When the applicant made a representation, the Railway Board, with the concurrence of the Advisor, Vigilance, took a view that it may be callous to shift him from Gorakhpur to Calcutta in the face of his personal problems; that his stay at Gorakhpur on a non-sensative post of CPTS is not likely to affect at all the disciplinary case, which was based more or less on documentary evidence already seized by the Enquiry Officer. Therefore, the transfer order dated 4.10.1989 was cancelled by an order dated 23.5.1990. Thereafter the Minister for Railways did not like the idea of the Railway Board reversing the order of transfer and, therefore, directed the transfer of the applicant from Gorakhpur to Calcutta.

5. We have given our anxious consideration to the facts of the present case. We have also seen the comments in the confidential file, which we do not consider necessary to put on record. We would only say that views for and against the transfer are available on the file. We are influenced by the fact that the applicant is retiring on 31.1.1991 and also that the post of CPTS, according to the Railway Board, is a non-sensative post. If so, there is good ground for the Tribunal to intervene and quash the transfer order dated 19.6.1990 at this stage of applicant's career.

6. In the result, the application is allowed and the transfer order dated 19.6.1990 is set aside with no order as to costs.

  
MEMBER (A).

  
MEMBER (J).

Dated: November 21<sup>st</sup>, 1990.