

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH) ALLAHABAD.

C.A. NO. 1136
T.A. NO.

OF 1992

Date of decision - 2.1.93

..... A.R. Tripathi Petitioner

..... Sri Satish Chandra Advocate for the petitioner

Versus

..... Union of India & others Respondent

..... Smitu Shukla Advocate for the Respondents

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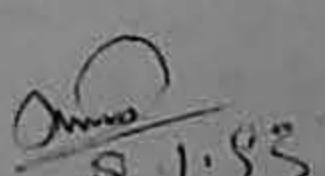
CORAM :-

The Hon'ble Mr. Hon'ble Mr. Mahoraj Deo - J.M.

The Hon'ble Mr.

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 ?

No.


8.1.93
Signature

NAQVI/

(3)

THE CENTRAL ADMINISTRATIVE TRIBUNAL- ALLAHABAD BENCH-ALLAHABAD.

O.A. NO. 1136 of 1992.

A.R. Tripathi..... Applicant.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. Mahraj Din- J. M.

This is an application under Section 19 of the Administrative Tribunal's Act 1985 seeking the relief that the transfer order dated 4.8.92 be quashed.

2. *The relevant facts giving rise to this application are* that the applicant is Head Ticket Collector in Northern Railway posted at Kanpur and vide order dated 4.8.92 he has been transferred to Bikaner. It is stated that the order of transfer is punative and also on account of family circumstances he is unable to move out from Kanpur.

3. The respondents filed reply and have stated that the transfer of the applicant has been made in the public interest and order of the transfer is not punative.

4. I have heard the learned counsel for these parties and perused the record.

5. The applicant was posted as Head Ticket Collector since 1982 and was confirmed on the said post vide order dated 19.10.87 w.e.f. 1.1.84 and was working on that post upto 15.4.88. He was reverted to two grades below on the post of Senior Ticket Collector vide order dated 15.4.88. The applicant against the order of reversion from the post of Head Ticket Collector to Senior Ticket Collector, filed a case (O.A.No. 144/88) before the Tribunal which was decided on 17.8.90 and the order of reversion was quashed(Annexure A-2). Consequent on decision of the aforesaid O.A., the applicant claimed pay and allowances worth Rs. 45,000/-. He has stated that one Ganga Din Asstt. Area Manager who had personal grudge against the applicant submitted his report against him about the payment of the arrears and at this instance he has been

transferred from Kanpur to Bikaner. Thus the applicant has alleged malefide against Ganga Din Asstt. Area Manager. It is to be pointed out that Asstt. Area Manager has nothing to do with passing of the order of transfer of the applicant from Kanpur to Bikaner. The order of transfer infact was passed by the Senior Divisional Commercial Superintendent and the same was communicated to the applicant by Asstt. Area Manager (Annexure A-1). The applicant has not alleged or proved any malefide against the Senior Divisional Commercial Superintendent. In the order dated 4.8.92 (Annexure A-1) it is written that the transfer of the applicant from Kanpur to Bikaner has been made on Administrative ground. So the plea taken by the applicant that the order of transfer is punitive, is not tenable.

6. The applicant has taken the plea that two disciplinary proceedings are pending against him at Kanpur and he has been transferred to a distant place with the view that he may not be able to participate in the inquiry proceedings. The applicant is the Railway Employee and he without any difficulty may manage to come at Kanpur and participate in the inquiry proceedings. Moreover, if the applicant is checked or obstructed in participating in the inquiry proceedings, the same will be vitiated and it will not be in the interest of the Railway Administration.

7. The applicant has stated that his children are getting education at Kanpur. If he is transferred to Bikaner their education will be disturbed. The applicant has also taken the plea that his wife is the acute patient of Asten Arthritis and she is getting treatment in Sanjay Gandhi Post Graduate Institute of Medical Sciences Lucknow. The applicant has said that his wife is suffering from the aforesaid disease for the last 10 years which according to him is un-curable disease. The exigencies in service are

transferred from Kanpur to Bikaner. Thus the applicant has alleged malafide against Ganga Din Asstt. Area Manager. It is to be pointed out that Asstt. Area Manager has nothing to do with passing of the order of transfer of the applicant from Kanpur to Bikaner. The order of transfer infact was passed by the Senior Divisional Commercial Superintendent and the same was communicated to the applicant by Asstt. Area Manager (Annexure A-1). The applicant has not alleged or proved any malafide against the Senior Divisional Commercial Superintendent. In the order dated 4.8.92 (Annexure A-1) it is written that the transfer of the applicant from Kanpur to Bikaner has been made on Administrative ground. So the plea taken by the applicant that the order of transfer is punitive, is not tenable.

6. The applicant has taken the plea that two disciplinary proceedings are pending against him at Kanpur and he has been transferred to a distant place with the view that he may not be able to participate in the inquiry proceedings. The applicant is the Railway Employee and he without any difficulty may manage to come at Kanpur and participate in the inquiry proceedings. Moreover, if the applicant is checked or obstructed in participating in the inquiry proceedings, the same will be vitiated and it will not be in the interest of the Railway Administration.

7. The applicant has stated that his children are getting education at Kanpur. If he is transferred to Bikaner their education will be disturbed. The applicant has also taken the plea that his wife is the acute patient of Astenno - Arthritis and she is getting treatment in Sanjay Gandhi Post Graduate Institute of Medical Sciences Lucknow. The applicant has said that his wife is suffering from the aforesaid disease for the last 10 years which according to him is un-curable disease. The exigencies in service are

of paramount importance and while considering the transfer of a Government employee from one station to another, the ailment of all other family circumstances are ignored. In the case of the applicant, his wife is the Chronic patient of Arthritis and it is un-curable disease, So if these factors are taken into account the transfer of the applicant from one station to another would never be possible in future also.

8. The transfer of the Government employee from one Station to another is the incidence of service and normally the same cannot be interfered with unless the transfer order is malafide or the same has been passed in violation of any mandatory statutory rules. This view was taken in A.I.R. 1991 S.C. P. 532 Mrs. Shilpi Bose Vs. State of Bihar & others.

9. Thus considering these facts and in the circumstances of the case, I find no merit in the case and the application of the applicant is dismissed with no order as to the costs.

Dt: Jan. 8, 1993.

Dhruv
8.1.93
Member (J).

(DPS)