

THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

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ALLAHABAD

Original Application No.1149 of 1992

Chandra Prakash .. Applicant

Versus

Union of India and others. Respondents

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HON'BLE MR MAHARAJDIN MEMBER-J

This application has been moved to issue direction setting aside the order dated 21/22-07-92 (Annexure A-1) passed by D S T E/M W/N E R/Gorakhpur and it is further prayed that the applicant be treated on duty w e f 30-07-92 till final relief is granted to him in this case.

The applicant was working as a Tele-Communication Inspector Grade-I under D S T E/Micro Wave, N E Railway Gorakhpur and was posted at Katihar N E Railway, Micro Wave Station since 1989. The applicant on his own request was transferred from Katihar to Kasganj in the same capacity (Annexure A-9). The said order of transfer was cancelled and the applicant was again directed to be posted at Katihar vide impugned order (Annexure A-1).

Thus being aggrieved by this order of cancellation of transfer, the applicant has approached to this Tribunal.

The respondents filed Counter Reply and resisted the claim of the applicant on the ground that the order of transfer of the applicant was cancelled by the competent authority and the same cannot be questioned by the applicant.

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

The applicant has stated that while posted at Kasganj he was allotted railway quarter No.802(A).

According to him the said railway quarter had been unlawfully occupied by some person by breaking the lock. The applicant is said to have made complaint to S P (Rly) Katihar about his unlawful dispossession from the quarter. The applicant has further stated that he received threatening letters addressed to him as well as to his mother for being kidnapped and to give Rs.50,000/- as ransom. Therefore, the applicant made request to the authority for his transfer from Katihar to any other place, upon which the applicant was transferred to Kasganj. The applicant instead of joining at Kasganj within a reasonable period proceeded

on sick leave without taking station leave permission.

The applicant remained absent without informing the

respondents for more than fifteen days, therefore,

his order of transfer from Katihar to Kasganj was

cancelled by the competent authority.

The respondents have denied the allegations

made by the applicant about forcibly taking of posses-

sion of the railway quarter by unlawful persons. It

is stated that the applicant was allotted railway

quarter No.802(A) at Katihar and rent was being recovered

from his salary. The respondents deputed Dudhnath

Pandey, Personal Inspector, N E Railway to enquire about

unauthorised occupation of the railway quarter in

question. The Personal Inspector, on spot enquiry, found

that the applicant along with his wife Shakuntala Devi

and daughter was living in the said quarter. The applicant

has disowned Shakuntala Devi as his wife. But the

witnesses mentioned in para 4 of the Counter Reply have

categorically stated that applicant and his wife Shakuntala

Dm

Devi with their daughter were living in Quarter No. 802(A) for the last four years. The Mukhiya of Village Panchayat Khuriabad (Rahtas) also certified that Shakuntala Devi is married wife of the applicant. The applicant admitted this fact by stating at the police station Katihar that he will not give any trouble to his wife Shakuntala Devi and daughter Km Alaka and if in future he does so, legal action can be taken against him. Since these facts are hardly relevant for decision of the real point in controversy, therefore, I do not think it proper to discuss about forcibly taking possession of railway quarter allotted to the applicant and demanding ransom by the miscreants. In nut-shell it can be said that the applicant on frivolous grounds managed to get his transfer from Katihar to Kasganj and when ^{the Respondent} they came to know about the real fact, they cancelled the transfer order and asked the applicant to resume his duties at Katihar. There was another ground also for cancellation of the transfer of the applicant from Katihar to Kasganj that he remained absent for more than fifteen days and did not resume charge

M.M.

at Kasganj. The contention of the applicant is that

he remained sick during that period and obtained the

medical certificate from the ~~doctor~~ other than ^{authorized} railway doctor.

~~to give him treatment.~~ The applicant left the station

without obtaining ~~obtaining~~ station leave permission.

In these circumstances there was no way out except to

cancel the order of transfer, and ask the applicant to

join at Katihar.

It has been contended that the cancellation

of the transfer order (Annexure A-1) is ~~cryptic, unreasoned~~

and it has been passed without affording an opportunity

to the applicant of being heard and for this purpose

learned counsel for the applicant has referred :

(i) A I R 1978 Supreme Court page 851

Mahindra Singh and another versus Chief
Election Commissioner, New Delhi & others

(ii) A I R 1990 Supreme Court page 1985

S N Mukherjee versus Union of India

(iii) A I R 1981 Supreme Court page 818

Swadeshi Cotton Mills etc Vs Union of India etc.

The above rulings cited by learned counsel for the

applicant are not applicable to the fact of the present

(Signature)

case because in none of these rulings it has been ruled

that the order of cancellation of transfer should be

followed with reasons and before passing such order the

applicant should be given an opportunity of being heard.

The impugned order is a purely administrative order and

such order can be passed in exigencies of service ,

particularly when the order of transfer was not acted

upon by the applicant for more than fifteen days.

Thus in view of the discussions made above

I find no merit in the application of the applicant ,

which is hereby dismissed with no order as to cost.

W.S.
21.4.93
MEMBER-J

DATED: Allahabad
April 21/1993.

(VKS)