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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 1351 of 1993

Allahabad this the 6th day of April 1995

Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

J.P. Srivastava/s/o Sri Shiv Shankar Lal R/o
88 E-F, Loco Colony 19th Avenue Allahabad Working
as Assistant Traction Foreman(RSO), Northern
Railway, Allahabad.

Shri
By Advocate Arvind Kumar

Applicant

Versus

1. Union of India through the Secretary, Ministry of Railway, Government of India, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Allahabad.
4. The Senior Divisional Electric Engineer(RSO), D.R.M. Office Northern Railway, Allahabad.

Respondents

By Advocate Shri A.K. Gaur.

O R D E R

By Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

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Petitioner, Sri J.P. Srivastava who was working as Assistant Traction Foreman (RSO) in the office of R.S.O., Allahabad filed this petition against his transfer order dated 24.8.1993 transferring him from Allahabad(Northern Railway) to Madras(Southern Railway) with immediate effect. He pleads that he was not handed over the transfer order till 04.9.1993 though he had sent a letter dated 25.8.1993 about this transfer

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order to the respondents and order of relieving him from his duty with immediate effect. He challenges the order on the grounds that the transfer order was not handed over to him through though he got a copy of it from his sources, that the train pass annexed with the notice was defective as it described his designation different from his designation. He pleads that the order is punitive in nature and is malafide as per his knowledge and belief, the order has been passed because of a "trivial incident" which took place on 17.7.1993 at railway station, Allahabad, in which Assistant Drivers and Ticket Collectors were ~~also~~ involved in heated arguments which resulted in detaining of several trains at Allahabad. He pleads that disciplinary action was started against the persons involved, out of which one has been exonerated later on. He pleads that since he was an office holder of the Loco Running Staff Association, he has been punished by way of his transfer from Northern Railway to Southern Railway. He pleads that he was neither on duty on that date nor was ~~present~~ present at the site of incident. He ~~pleads~~ pleads that under the rule, he could not be transferred from one zone to another and that the transfer order is not due to administrative reasons. The penalty of transfer could not be imposed without conducting an inquiry.

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2. The respondents in their short counter-reply have, however, denied all the allegations/averments made by the petitioner. They have pleaded that the petitioner was personally handed over the transfer order and the notice relieving him from duties. The transfer order has been passed in administrative exigencies and is not passed malafide. They pleaded that the petitioner had not exhausted the remedies available to him before coming to the Tribunal. The pass issued to him was valid and correct as the designation of the petitioner had been changed as shown by the annexure filed with the counter-reply. The transfer order was in public interest and transfer is an incidence of service; His transfer was ordered by the Railway Board and under Rule 226 of the Indian Railway Establishment Code Volume-I was within the jurisdiction of the authority which passed the order. It is pleaded that the petitioner has not mentioned any specific instance to substantiate his allegations of malafides. The transfer order is not violative of any statutory rules. No inquiry is required as transfer is not a penalty.



3. The counsel for the respondents at the very outset raised objection that since

there was no stay order staying the operation of the transfer order dated 24.8.1993, it had become fully effective and, thus, the petition has become infructuous. A perusal of the record shows that the objection is well founded. The petitioner after his transfer order dated 24.8.93 was immediately relieved of his duties vide Annexure A-2, Annexure A-1 is the transfer orders dated 24.8.1993 mentioning that the transfer has been ordered from New Delhi through a letter dated 20.8.1993. For all intents and purposes the order had been carried out.

4. Considering the grounds raised on merits, this court finds no substance in the same. Rule 226 as has been reproduced through annexure C.A.-1 makes it clear that even General Manager can pass orders of transfer from one zone to another. In the case of the petitioner the orders have been passed by the Railway Board which have been further communicated through Annexure A-1. No reasons are required to be given for transfer of one employee from one place to another. In any case, in the case of the petitioner, it has been made clear in the pleadings and the orders of transfer that these are made in administrative and public interest. There is nothing on record to show that these are otherwise

5. On the question of malafides and the order being punitive in nature, the petitioner has himself pleaded that he had absolute no connection -- with the incident which occurred at Allahabad station on 17.7.1993 between the Assistant Drivers and Ticket Collectors. His plea ^{is} that he was not even present on the date of this incidence. It is not understandable as to why he alone would be picked ~~up~~ for an incident~~@~~ for which he was not responsible or was not even present as pleaded by him. Even if, it be assumed that some incident did take place which prompted the employer to pass orders of transfer which was found to be in administrative interest, the Court would refrain from interfering with the same unless it is shown to be either malafide or against the statutory rules. For allegations of malafides, the petitioner is required to give the facts with ~~malafide~~ allegations of malafides against the specific person who may have moved for ~~passing the transfer orders~~ and such person~~@~~ is ^a necessary party to be impleaded by name. No particulars have been given in the petition nor there are allegations of malafides against any officer by name and no such officer has been impleaded in the petition. On vague suspicion, the Court cannot record a finding

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that the Transfer orders~~are~~ are malafide or punitive in nature in the present case. Simply because the petitioner happens to be ^{Secretary} ~~of~~ of Loco Running Staff Association, that itself cannot be taken to be ^{sufficient} ~~to~~ to make an inference that his transfer must be by way of punishment. No violation of any statutory rules is shown in ~~the~~ ~~present case~~ passing the impugned orders. Simply because the petitioner was relieved from his duties on 24.7.1993 when the local officer passed the order (Annexure A-1) on the basis of the order received from New Delhi is no ground to infer that there was any ^{un} ~~due~~ haste.

6. For the fore-going reasons, this Court ~~cannot~~ find ~~no~~ merit in this petition and the same is dismissed without any order as to costs.

J. Anzi 16.
Member(J)

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