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THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

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Original Application No.1421/1993

H.L.Suman .. ... .. Applicant

Versus

Union of India and others .. .. Respondents

HON'BLE MR MAHARAJDIN, MEMBER-J

The applicant has filed this application seeking the relief to quash the order of his transfer passed on malicious ground and was passed in violation of the principle of natural justice.

The applicant has been working as Signal Inspector Grade-I and while posted at Sultanpur, he was picked up to serve on deputation to Iraq under the RITE (Rail India Technical Economics) Services where he served from 11-06-1988 to 12-04-1990. The applicant prior to his appointment in RITE had been promoted to next higher grade of Signal Inspector Grade-II in the pay scale of Rs.1600-2660 w.e.f. 01-01-84 in the scheme of Cadre re-structuring. It is stated that according to the instructions the employee on repatriation from deputation abroad will be eligible for his posting at the same station from where he was directed to join the foreign assignment, but in case of the applicant these instructions have not been implemented. It is stated that the applicant is a member of Scheduled Caste and considering this aspect he was posted at Sultanpur which is situated in the vicinity of native place. Now the



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applicant in violation of the said instruction is posted at Prayag on 05-05-90 in the capacity of Signal Inspector in the pay scale of Rs.1600-2660. With a prospect of eligibility for promotion as Signal Inspector Grade-I vice the vacancy of Sri N.B.Srivastava Signal Inspector Grade-I at Prayag Railway Station in the pay scale of Rs.2000-3200. It is said that the applicant worked in the higher grads, but he was not paid the difference of pay of the higher grade nor the officiating allowance. The applicant now has been transferred for joining at Lucknow in the capacity of Signal Inspector Technical Lucknow vide order dated 04-01-93 (Annexure -VII). On representation submitted by the applicant the said transfer was kept pending and was again transferred after three months to be posted in Divisional Training Traffic School, Lucknow on 30-04-1990 as Safety Instructor/ Inspector in violation of the cadre and grade because the said post was to be filled up by Signal Inspector Grade-II in the pay scale of Rs.1600-2660 whereas the applicant claims to have been officiating on ad-hoc basis as Signal Inspector Grade-I in the pay scale of Rs.2000-3200. As such his posting in the Divisional Training Traffic School amounted to demotion. The applicant alleged to have been ~~in~~ discriminated by series of transfer and departmental action came into offing against him, which was based on some fake complaints made by the Lok Member of Parliament Shri Jai Prakash of Hardoi district. Another report was submitted by A.S.T.E./Varanasi on 16-04-1993 with certain allegations about the performance but the petitioner was not served with show cause notice and this report of

(Signature)

A.S.T.E./Varanasi was conducive to adverse entry in the service record of the applicant as such the impugned order of transfer is passed on the basis of fake complaint and <sup>on</sup> malicious grounds. The applicant was never given any notice or charge-sheet except that the order of transfer claiming to have been passed on administrative grounds. The applicant has not completed his normal stay of five years at Prayag railway station which will result in dislodging of his family establishment and disturbing the educational of his children. The applicant has come to know about the impugned order of his transfer although it has not been served on him, hence he has come up before this tribunal for redress.

The respondents filed counter affidavit and resisted the claim of the applicant on the ground that the order of transfer of the applicant has been passed on administrative exigencies.

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

The order of transfer passed on administrative ground may be due to undesirable activity of an employee or due to formation of caucus which may be responsible for creating an atmosphere of indiscipline not conducive to smooth and efficient functioning of local office.

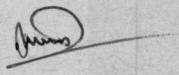
In such cases there is no necessity to issue show cause notice or serve the chargesheet to initiate departmental proceedings. It is sufficient ground to shift an employee to another station where he may not get the atmosphere of forming any caucus to hamper the official work. The

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applicant had gone to Iraq on deputation under RITE service and had worked there from 11-06-1988 to 12-04-90. The applicant has stated that <sup>2</sup> and thereafter he was promoted as Signal Inspector Grade-II on Cadre Restructuring scheme with effect from 01-01-1984. The promotion of the applicant was temporary and on ad-hoc basis in the pay scale of Rs.2000-3200. The applicant though has pleaded that he was promoted temporarily on ad-hoc basis to officiate as Signal Inspector Grade-I. <sup>and 2</sup> Now on transfer he has been posted on the post held by Signal Inspector Grade-II, but in this O.A. no relief against his reversion to his substantive post of Signal Inspector Grade-II has been sought. In this application the main relief of the applicant is that his order of transfer from Prayag railway station to Divisional Training Traffic School Lucknow be quashed, so I am not supposed to go in other details which though are pleaded in the application but has no relevance with order of his transfer. He has, however, also not challenged his reversion from officiating post on ad-hoc basis to the post which he already held.

The applicant has urged that the order of transfer is malicious. According to him it has been passed on certain complaints. It is further said that without issuing show cause notice or serving charge-sheet for initiating any departmental proceedings, he has been penalised by giving transfer from Prayag Railway Station to Lucknow. As has been stated by the applicant himself that in the order of transfer the reason is assigned that it has been passed on administrative ground and in exigencies of service, so the order of transfer

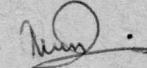
cannot be said to have been passed on the basis of complaint made against him. The order of transfer passed on administrative ground may be due to undesirable activity of an employee or due to formation of caucus which may be responsible for creating an atmosphere of indiscipline not conducive to smooth and efficient functioning of local office. In such cases there is no necessity to issue show cause notice or serve the charge sheet to initiate departmental proceeding. It is sufficient ground to shift an employee to another station where he may not get atmosphere of forming any caucus to hamper official work. The transfer of a Government employee is an incidence of service and the law is settled on the point that the court should not normally interfere unless the order of transfer is passed in violation of the mandatory statutory rules or malafidely. The applicant has not alleged malafides against the officer who passed the order of transfer nor it is said that it has been passed by the authority who is not competent to pass the transfer order. The contention of the applicant that prior to proceeding on deputation he was posted at Sultanpur and on repatriation he was posted at Prayag and from Prayag now he has been transferred to Lucknow is also made in violation of the instructions of the department. It is further said that on repatriation he should have posted at Sultanpur but he was posted at Prayag. The applicant has not challenged his transfer from Sultanpur to Prayag rather he after having been transferred from Sultanpur to Prayag had worked there for considerable period and therefrom he is transferred to Lucknow. So the impugned order of transfer cannot be said to have been passed in violation of the departmental instructions, if any.



The another aspect of the matter is that applicant belongs to Scheduled Caste and it is said that according to the instructions he should be accommodated on transfer nearer to his native place. The applicant is a resident of district Azamgarh and Lucknow / where he is being transferred is not away from Azamgarh. Moreso such departmental instructions can be followed in cases of deserving candidate as well as on availability of vacancies.

The applicant has also pleaded that the normal stay of his Signal Inspector at one station is five years and he has been picked up for transfer before completion of the said period which will result in dislodging of his family and disturbing the education of his children. As referred to above, transfer of a Government employee is an incidence of his service and one can be transferred even before completion of his tenure at a particular station on administrative exigencies. As regards disturbances in the education of the children and /dislodging of the family of the applicant, such occasions come on transfer from one station to another station which does not mean that the employee cannot be shifted on transfer from one place to another place.

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.

  
MEMBER-J

dated: Allahabad, February 9<sup>th</sup>, 1994.  
(VKS PS)

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