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Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 1156 of 1993

Surendra Nath Sharma Applicant,
versus

Union of India
and others Respondents.

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(By Hon. Mr. S. Das, Gupta A .M.)

In this Original Application No. 1156 of 1993, filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the orders dated 28.6.1993 (Annexure- A 1) and dated 10.6.1993 (Annexure- A 1/1) transferring him from Fatehpur to Ajaibpur.

2. The brief facts of the case are that the applicant was working as Electric Signal Maintainer Grade-III at Fatehpur in Allahabad Division since 24.9.1984 i.e. the date of his ^{final} appointment on selection by the Railway Service Commission, Allahabad. By the impugned orders, he was transferred from Fatehpur to Ajaibpur giving rise to this petition.

3. The case of the applicant is that the orders ^{have not} having been issued by the competent authority and as such are bad in law. He has also alleged that the transfer orders have been issued out of malafide.

4. Denying the allegations of the applicant, the respondents have stated in their counter affidavit that the transfer had been ordered on administrative

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ground and have vehemently denied any malafide on the part of the respondents.

5. I have heard the learned counsel for both the parties and ^{Carefully} accordingly gone through the records. So far as the plea of the competence is concerned, the respondents have averred that the impugned orders are merely in the nature of conveying orders of the competent authority. I am inclined to agree with this ^{confusion} condition, particularly in view of the fact that the answering respondent no.2 who is a Senior Divisional Signal and Tele-communication Engineer Allahabad has stated in his counter affidavit on oath that the order has been passed by the competent authority. According to the applicant's own averments, the respondent no.2 is a competent authority to issue transfer order.

6. As regards the allegation of malafide ~~is concerned~~, I find that the allegations are vague and general in nature and the applicant has failed in adducing sufficient proof of existence of any malafide on the part of the respondents.

7. It is now the settled position of law that the transfer is an incident of service and unless the transfer order is in violation of any statutory rules or is actuated by malafide, the courts/ Tribunals shall not interfere with such orders.

It is not the case of the applicant that the transfer is violative of any statutory rules. As already stated above, there is no sufficient proof of existence of any malafide on the part of the Respondents.

8. In view of the above, I find that the petition is devoid of merits and hence is dismissed. There will be no order as to Costs.

WR

Member (A)

Dated : 9 December, 1993
(n.u.)