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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

O.A. No. 1338 of 1994

Sri Jag Bandhan Yadav ... Applicant.

Versus

Union of India
and others Respondents.

...

(By Hon. Mr. J. S. Dhaliwal, Member (J))

Present Sri B.P. Srivastava, advocate
learned counsel for the applicant. Heard.

The applicant is posted as Assistant Station Master at Kunda Harnam Ganj Railway Station. It is pleaded that Senior Divisional Operating Commercial Superintendent conducted raid at the aforesaid Railway Station and found certain discrepancies and a F.I.R. was lodged at Allahabad. He was placed under Suspension and was served with the charge-sheet dated 17.5.1994. Thereafter he has been transferred from his place of posting vide order dated 4.8.1994 (Annexure- 1) to Bikaner Division.

2. It is pleaded that once a criminal case is registered against an employee and a departmental action is started against him under a Railway Board Circular dated 25.4.1962, he should not be transferred away from place of posting to the distant place. Prayer has thus been made to declare the transfer order null and void.

3. Hon'ble Supreme Court has considered the question of transfer on number of occasions. In

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State of Punjab Vs. Jogendra Singh, reported in AIR 1993 SC page, 2486, it was held that it is entirely for the employer to decide when, where and/what point of time a public servant is to be transferred and that court should ordinarily not ~~interfered~~ in such transfer order unless it is shown that the order is either malafide or is in violation of some statutory rules.

4. In other cases like Union of India Vs. N.P. Thomas, AIR 1993 SC page 1605 and Miss Shilpi Bose Vs. State of Bihar, AIR 1991 SC page 532, the same view has been reiterated.

5. Considering the facts of the present case nothing has ~~@@~~ been shown as to what statutory rules have been violated. The guidelines mentioned in the 1962 circular are to be taken into consideration generally but those do not curtail powers of an employer who transfers an employee ~~are~~ ^{if} peculiar facts and circumstances of a particular case so requires. No prima facie case fit for trial under Section 19 of the Administrative Tribunals, Act is made out. The application is, therefore, dismissed in limine. He may, if so advised, make

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representation to his employer in view of the guidelines aforesaid for his transfer to the same station or a nearby station.

Jansi Rb
Member(J)

Dated: 08.09.1994

(n.u.)