

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad : Dated this 19th day of January, 2000

Original Application No. 1513 of 1999

District : Moradabad

CORAM :-

Hon'ble Mr. S. Biswas, A.M.

V. Chandran
S/o Late Shri Nathu La,
Sr. Section Engineer-SSE(Tele)/East
Northern Railway Divisional Office,
Moradabad.

(Sri ABL Srivastava/Sri MK Upadhyaya, Advocates)

• • • • • Applicant

Versus

1. The General Manager
Northern Railway, Baroda House,
New Delhi.
2. Shri P.C. Sharma,
Divisional Railway Manager,
Northern Railway Divisional Office,
Moradabad.

(Sri AV Srivastava/Sri Prashant Mathur, Advocates)

• • • • • Respondents

O R D E R

The applicant who is presently working as a Senior Section Engineer Telecom at Moradabad has contested his transfer order to Sitapur on administrative ground by order no. EO/Telecom-4-78/Sig-I dated 1-10-1999 stating that the aforesaid transfer order has been contrived to harass him and the transfer is not according to the laid down principles and practices. He was picked up to be harassed. There is ^{no} precedence to transfer an officer with less number of years spent in station living out others who have done a longer period at the same station. The applicant has also alleged that because he did not cooperate with the General Manager in a CBI enquiry against the latter and it was wrongly alleged that he cooperated with the CBI and, therefore, his transfer

S. Biswas

order was concocted to Sitapur, otherwise there is no necessity of a Senior Section Engineer to be posted ^{there}. The telecom requirement of the Railway Line at Sitapur is being looked after by the DOT.

2. The applicant also has brought out on record various technical requirements for ^{setting} up of station at Sitapur which are non-existent. Despite the decision was taken up by the General Manager at the last moment on 1-10-199 as per final Note to transfer him by concocting a non-existent organisational requirement in order to justify the administrative exigencies to transfer him to Sitapur vindictively. He has cited ^{some} ^{local} press report in this regard. The applicant further states that he has spent less number of years as compared to his colleagues who are Senior Section Telecom Engineers under Moradabad Division. There are various rulings and directives to protect him from harassment and vindictive-transfer being a Schedule Cast employee. He also challenged the authority of the ^{local} ^{R.} General Manager to create and transfer post which is within the jurisdiction of the General Manager stationed at New Delhi. The transfer was ^{temporarily} ^{SP} admitted made when the applicant was admitted for indoor treatment in the Divisional Railway Hospital, Moradabad.

3. The allegations of harassment and conspiracy have been contested by the respondents by giving separate affidavits. As per schedule of power for establishment shown to me it is clear that the ^{local} General Manager has full power in respect of transfer/posting of organisation to be controlled and manned in the Division. It is further stated that the transfer of the applicant, who is a Group 'C' Officer, is to be transferred every five years by rotation but this rotation has not been implemented in this case because of work's exigencies.

^{unit}
^{SO}
Sitapur was having a TCE already that was required to be
reinforced by posting a Senior Section Engineer. Such
decision is within the power and jurisdiction of the local
General Manager whose approval was taken on 1-10-1999.
It has been denied that the issue of the order of transfer
on the same date has nothing to do with harassment and
connivance against the applicant. He was transferred
because he was the seniormost and most experienced
person to meet the challenge of the job at Sitapur,
^{SO}
otherwise ~~he~~ had also done his term at Moradabad station.
In fact, he is stationed at Moradabad since his
recruitment. Only for a shortwhile in 1980 vide order
dated 25-7-1980 he was posted at LRJ (Bareilly). Thereafter
he was again brought back to Moradabad.

4. The allegation of CBI enquiry has also been
disputed stating that it was a routine inspection of
the various telephones by the CBI. The incident took
place after his transfer. The applicant wanted his
personal file and the Note Sheet where the approval of
the General Manager was obtained for inspection by the
Court. The respondents have complied with it and have
shown the relevant documents including the seniority
list. The Note Sheet page which has been cited by the
applicant was, however, not shown saying that the
applicant has already filed a photocopy of the same
which has been accepted as correct. The applicant has
also submitted in support of his case various rulings
and orders on transfer issues ^{in view of} indicating Scheduled Caste
employees and harassments. ^{SO} I have gone through them
carefully and even submission of the respondents.

5. The transfer of the applicant to Sitapur on
administrative exigencies cannot be disputed simply
because the applicant has been selected and posted there.

The General Manager has proper authority to transfer a Group 'C' Officer at the convenience of the administration. The applicant has completed more than 5 years of stay /there is at Moradabad and /no evidence to show that any malafide was caused by the respondents on this score.

6. Regarding length of posting of three Senior Section Engineers Telecom at Goradabad, namely, Sri Shailesh Chandra, Sri Chandra Bhushan Prasad and the applicant, it is observed that all these three persons have been overstaying at Moradabad for more than five years which is the minimum period for rotation or transfer. The applicant had mentioned that one Sri A.K. Nigam, who is there for a much longer period and is junior has also not been touched. As regards Sri Nigam, it has been mentioned that he is not a Senior Section Engineer.

7. The respondents have admitted that Sri Shailesh Chandra, Sri Chandra Bhushan Prasad and the applicant are only three Senior Section Engineers posted under Moradabad Division and all of them had overstayed five years at one station. The applicant has come there on transfer in 1980 and has palpably overstayed also but the other two incumbents have also overstayed for a longer period at that station. It is also seen that as per the seniority list ~~that~~ when the other two persons were ^{SB} promoted to the present grade in the year, 1993, the applicant was promoted in the year, 1989 but in the seniority list he figures below them. This point of course is not the subject matter of the present application. As far as the length of stay in one station is concerned, the other two persons have spent a longer period and, therefore, they would be liable to be

transferred first. Though the applicant is stated to have been promoted in 1989, and the other two persons were promoted in 1993, in the seniority list these two persons have been shown as senior. Going by the arguments of the respondents, both by length of posting at one place as well as by seniority, the other two incumbents were liable to be transferred first.

8. In view of the foregoing the transfer order of the applicant is vitiated by non-observance of the length of posting at one station and is accordingly set aside. The applicant may, however, be transferred by the respondents in a common order of rotation as it is seen that all of them are overstaying in one place and, therefore, the applicant alone should not have been picked up for transfer. There shall be no order as to costs.

S. Bawali
Member (A)

Dube/