

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad This The 17th Day of December 1999.

Coram : Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No. 1522 of 1999.

Kanhaiya Lal
son of Sri Ram Narain,
Principal, Northern Railway Higher Secondary School
Bareilly,
resident of Railway Mess. Campus Bareilly.

. . . Applicant.

(Through Sri D.P. Singh, Adv.)

Versus

1. The Union of India through its General
Manager, Northern Railway, Baroda House, New Delhi.
2. The General Manager (P.) Northern Railway Baroda
House, New Delhi.
3. The Divisional Railway Manager, Northern
Railway Moradabad.
4. The Divisional Manager (P.),
Northern Railway Moradabad.
5. Sri K.M. Tiwari, T.G.T. Railway Higher Secondary
School Bareilly.

Opp. Parties.

Order (Open Court)

(By Hon'ble Mr. S. Dayal, A.M.)

This O.A. has been filed for setting aside the order dated 3.12.99 and a direction to the respondents not to replace the applicant from the post of Officiating Principal Northern Railway Higher Secondary School Bareilly in pursuance of order dated 3.12.99.

2. The facts of the case are that the the applicant was asked to look after the work

of Principal Railway Higher Secondary School Bareilly on the retirement of the previous incumbent because he was the senior most teacher in Bareilly. He has been transferred to Tundala on administrative ground as trained graduate teacher. In his place the next senior most teacher has been asked to look after the work of Principal.


3. The contention of the applicant is that he had obtained a right to work as acting Principal by virtue of order dated 31.8.94 which stipulated that the applicant shall work on the post of acting Principal till the Head of Office appoints a principal on regular basis.


4. We have considered this proposition of and we do not accept that the contention of the applicant that a right ^{has} accrued to the applicant to work as Principal till the appointment of regular incumbent and that he can not be transferred because of this order. Transfer has been held to be an incident of service and as such the immunity can not arise merely because the applicant was asked to work as acting Principal.

5. The learned counsel for the applicant has brought instance of malafide ^{to our notice}. He has included respondent No. 5 Sri K.M. Tiwar. Trained Graduate Teacher by name. Sri K.M. Tiwari is only successor of the applicant and is in no way responsible for impugned order. The impugned order has been passed by D.R.M.(P.) Northern Railway Baroda House, New Delhi and merely because of allegations of malafides it can not be taken ^{as proved} especially ^{as} the officer who ordered

the transfer is not a respondent by name.

6. Learned counsel for the applicant has brought to our notice the order of the High Court of Allahabad in Himanshu Kumar Chaturvedi Vs. University of Gorakhpur, Gorakhpur and others reported in 2(U.P.) L.B.C. page 1433 in which it has been laid down that the right of adhoc to continue in service till regularly selected candidate joins ^{does not} ~~not~~ comes to an end merely after expiry of period ~~RR~~ for which he was appointed, As the appointment had been made till regularly selected candidate joins. An adhoc arrangement can not be equated ^{with acting officiation} and therefore relief in this case can not be allowed ^{on} ~~to~~ the facts of this case. The O.A. is therefore dismissed in limine.


Member (J.).


Member (A.)

Nafees.

D.A. No. 1522/99


17.12.99

Hon'ble Mr. S. Dayal, A.M.
Hon'ble Mr. Rafiq Uddin, J.M.

Sri D.P. Singh learned counsel for the
applicant presents his D.A. for hearing.

Arguments heard. Order dictated


J.M.


A.M.