

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 18th day of May, 2001

Original Application No. 1185 of 2000.

CORAM :-

Hon'ble Mr. SKI Naqvi, J.M.

S.K. Saxena, S/o Shri P.N. Saxena,
Residing in qr. No. P.I.A,
North West Colony, Northern Railway,
Bareilly Junction.

(Sri ABL Srivastava, Advocate)

.....Applicant

versus

1. Union of India through the
Divisional Railway Manager,
Northern Railway, Moradabad Division,
Moradabad.
2. The Divisional Electrical Engineer,
Northern Railway, Moradabad Division,
Moradabad. ~~Division~~
3. The Asst. Engineer Electrical,
N. Rly. Moradabad Division,
Moradabad.

(Sri Prashant Mathur, Advocate)

..... Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. SKI Naqvi, J.M.

Sri SK Saxena, while posted as Section Engineer
(Power) at Bareilly has been transferred with the post
to Roorkee vide order dated 26-9-2000, a copy of which
has been annexed as Annexure-A-1 to the OA. The applicant
has impugned ^{this order} mainly on the ground that the officer who
has passed this order is not competent to transfer him
as such and also that it is a mid academic session
transfer order passed on the basis of complaints and
suspension and, therefore, punitive in nature. The

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applicant has also mentioned that his four school going daughters will get disturbed in their studies.

2. The respondents have contested the case inter alia on the ground that due to electrification of Roorkee Section, the applicant has been transferred as service exigencies. It has also been mentioned that the order has been passed by the competent authority and prior to issue of the same the approval of the D.R.M. has been obtained. It has been specifically denied that it is outcome of any complaint or ill-will and, therefore, it cannot be punitive in nature. For being mid term academic session transfer Sri Prashant Mathur, counsel for the respondents submits that at present it cannot be said to be mid educational session transfer being it the month of May.

3. Heard learned counsel for the parties and perused the record.

4. During the course of argument a controversy arose in respect of interim order granted on 30-10-2000, the applicant alleges that he has been shown to have been transferred by ante-dating the service not personally but by pasting on the residence of the applicant as against the fact that during that period the applicant was critically ill and hospitalised under information of the authorities and, therefore, if the service was genuine that could have been served upon the applicant at the hospital. It has also come during the arguments that for not complying the impugned transfer order the applicant has been placed under suspension. The applicant has also ventured to mention the instances in his rejoinder affidavit where the transfer orders have not been enforced for good long period of more than 15 months against the

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other incumbents of the cadre and they have been allowed to stay at one station for decades and, therefore, it was unjust to take stringent action against the applicant by placing him under suspension.

5. Keeping in view the facts and circumstances of the matter, it will be relevant to mention at the first that here the controversy of suspension is not under review being it beyond the scope of the OA and the relief sought there. As per the respondents' case the applicant has been transferred due to service exigencies. This position has been mentioned in sufficient details in the pleadings from the side of the respondents. The impugned order also mentions that it has been issued after obtaining the approval from the competent authority.

6. From the above it is quite evident that the case of the applicant has been handled with some stringent steps and needs review by the departmental authorities and the OA is decided with the following direction.

7. In case the applicant moves a representation to the competent authority within ³ ~~two~~ weeks, the same be decided expeditiously by passing a detailed speaking order and till then the applicant be deemed to have remained posted to the post held by him at the time when the impugned order was passed and the impugned order shall remain in abeyance.

Sat Narayan

Member (J)

Dube/