

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD.

Allahabad This The <sup>26<sup>th</sup></sup> Day Of May, 2000

Original Application No. 279 of 2000

CORAM:

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

Krishna Deo Pandey, son of Late Shri Janardan Prashed Panday, Resident of Mohalla Hansapur post office Geeta Press District Gorakhpur at present posted as Commercial Clerk Booking Gorakhpur Junction N.E. Railway Lucknow Division.

.....Applicant

(By Adv: Sri I.P. Srivastava)

Versus

- 1- Divisional Railway Manager, Commercial N.E. Railway Lucknow.
- 2- Divisional Railway Manager N.E. Railway Lucknow Division Lucknow.
- 3- Divisional Railway Manager (personnel) N.E. Railway Lucknow.
- 4- Chief Vigilance Officer/Senior Deputy General Manager N.E. Railway Gorakhpur.
- 5- Union Of India, through Manager N.E. Railway Gorakhpur.
- 6- Regional Manager N.E. Railway Gorakhpur.

.....Respondents.

(By Adv: Sri A.K. Gaur)

S. A.

O R D E R  
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(By Hon'ble Mr. S. Biswas, A.M.)

The applicant seeks directions to quash the transfer orders dt. 1-2-2000 and 19-2-2000 passed by the respondent Nos. 3 and 6, allow him to continue at Gorakhpur Junction from where he has been transferred by the above mentioned order. The applicant has sought the following directions in the O.A.:

2- The transfer order and subsequent directions dt. 1-2-2000 and 19-2-2000 respectively by the respondent Nos. 3 and 6 be quashed and the applicant be permitted to continue at Gorakhpur Junction N.E. Railway Gorakhpur.

3- The applicant, a commercial Booking Clerk at Gorakhpur Junction Railway Station was transferred by the order dt. 1-2-2000, following a vigilance trap on 29-11-99. He was on duty at the counter No. 3 at 4:00 p.m. and till 8:30 p.m. He collected Rs. 1,94,351 and served about 1,100 passengers. At about 8:30 p.m., the Inspectors of the vigilance Deptt. reached the work place of the applicant and after checking, they found Rs. 10/= as excess money in the counter. The officials of the respondent No. 3 made out a false case on account of 5 tickets sold to Ludhiana bound passengers who gave Rs. 860/= as against Rs. 850/= for 5 tickets. A false case was made out, following which harassment by the respondent No. 4 several press reports appeared. Even the passenger who had allegedly paid excess money was not permitted to tell the truth.

*S. Biswas*

4- After receiving the order of transfer from Gorakhpur to Mailani, the applicant made a representation dt. 4-2-2000 to respondent Nos. 1 and 2, but the respondent No. 6 vide impugned order on 19-2-2000 relieved him from Gorakhpur. The applicant filed another representation that on similar charges one Farid Ahmad was not transferred. The applicant came on transfer to Gorakhpur in 1994 to 1996 and there was no complaint against him;

5- I have heard both the sides. The applicant's counsel further submits that no disciplinary case has been initiated against him. A transfer at this stage without completion of the disciplinary proceedings will stigmatise his reputation. His career prospects are inhibited by the transfer on administrative reason but pending an enquiry.

6- Counsel for the applicant contends that in Bharu Pratap Mishra vs. The Secretary, Minor Irrigation and Rural Engineering Service, U.P.-Lucknow and others, the transfer order of the applicant from Gorakhpur to Gonda was cancelled on the consideration that the family of the applicant would suffer due to transfer. ~~Further~~ Except for this limited consideration, it has been held in the case that a Govt. servant has no vested right to remain posted at one particular place. The transfer is an incident of service. It has also been held that the court should not interfere with transfers which are made in Public interest. Further, the applicant's counsel has pointed out that his children are in the middle of the academic session. They would be disturbed by the transfer made in the middle of the session. The applicant's counsel has further cited Hon' Supreme Court's decision in case No. Civil Misc. writ petition No. 28431 of 1991 Sheshmani Tripathi Vs. Inspector General of Prisons, U.P. Lucknow and another. Where frequent transfer of the applicant from one

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place to another within two months was held as punitive. Such transfers only cannot be said to be due to administrative exigencies. ~~The~~ case of Appeal No. 109 of 1991 State of U.P. and another vs. Sheshmani Tripathi, the ratio of the decision is also applicable to the applicant.

7- The respondents' counsel has contended that but for a small break in 1996, the applicant is there since 1994. He is at Gorakhpur since 1996 and previously also he was posted for a long time there. Hence, the ratio of this decision is not strictly applicable in this case.

8- The learned counsel for the respondents has contested the O.A. stating that there is no such complaint by any individual against the applicant. He was transferred following a vigilance case in which the vigilance officer recovered an excess of Rs. 10/= from the counter managed by the applicant. It was on this administrative exigency, the applicant was transferred. The press reports were not the basis for his transfer; but <sup>an</sup> independent report he was transferred. The applicant was caught red handed with an excess of Rs. 10/= which was taken from the passenger, while selling tickets.

9- The applicant was transferred on administrative ground. Such transfers are incident of service. The transfer was not in violation of any rule.

10- The learned counsel for the respondents has cited the case of Sri Kamlesh Trivedi vs. Indian Council of Agricultural Research and another. In the present O.A. the transfer of the applicant was made from Gorakhpur to Mailani by the respondents, following a vigilance case against the applicant. Hence neither any malafide nor any violation of any rules was involved. Transfer is an incident of service and the applicant held transferable post. It is well understood that disciplinary proceedings is in the process. The applicant has come to Gorakhpur on his second term. He



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is there since 1996. Therefore the transfer can not be invalidated as illegal for any malafide. However, considering the fact that the academic session is on the applicant's transfer may disturb the academic prospects of his children. For that matter, he should get the benefit of retention of his official quarter for six months after receiving, for educational purposes.

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In view of the above, the petition is dismissed as not maintainable.

12- No order as to costs.

*S. B. M.*  
A.M.

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