

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.651/2002

MONDAY, THIS THE 3RD DAY OF JUNE, 2002

HON'BLE MR. S. DAYAL .. MEMBER (A)

Mahi Lal,
aged about 46 years,
S/o Sri Dhani Ram,
Working as Senior Section Engineer (P.Way),
Northern Railway,
Moradabad.

Applicant

(By Advocate Shri T.S. Pandey)

Versus

1. Union of India, through
General Manager (P),
Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Moradabad Division,
Moradabad.
3. Divisional Superintending Engineer (C),
Northern Railway, Moradabad Division,
Moradabad.

... Respondents

(By Advocate Shri A.K. Gaur)

O R D E R - (ORAL)

This application has been made for issuance of
direction setting aside the order dated 2.4.02 and 15.5.02.

2. The learned counsel for the applicant states that the applicant joined the post of Senior Section Engineer Permanent Way, Moradabad Division on 26.4.2000. The applicant holds sensitive post which has a charge of stores of Moradabad and Chandusi division and comes into contact with public as well as contractors and also material suppliers. The applicant belongs to Scheduled Caste community. A vigilance check was carried out on the stores of the applicant at Moradabad on 26.2.2002. Some CST plates were found in excess by the vigilance department. The stores on Chandausi

were checked by the vigilance department on 23.3.02 and 24.3.02. The applicant claims that an inventory list was not prepared and blank papers were got signed by the vigilance party from the applicant. It is claimed that the inventory has not been supplied to the applicant despite representation and efforts made by him. The applicant was required to give a statement on 26.4.2002. He was also served with a transfer order dated 2.4.02. This application challenges the said transfer order.

3. I have heard Shri T.S. Pandey for the applicant.

The learned counsel for the applicant has challenged the transfer order on two grounds.

4. The first of these is that a tenure of 4 years is laid down in respect of posts of sensitive nature like the one occupied by the applicant before the transfer order was made. The second ground on which the transfer order has been challenged is that it is punitive in nature.

5. As far as the first ground of tenure of 4 years is concerned, the applicant has filed a copy of circular of Railway Board dated 29.9.1989 as Annexure-A8 and the portion relied upon by the applicant is as under:

"Railway Board's letter No.E(NG)/I/87/TR/84/NFTR/JCM/DC/ dated 21.9.89, circulated under EB10094 lays down that Railway employees who frequently come into contact with the public and or contractors/suppliers and those holding sensitive posts, should be transferred after four every four years."

6. It is clear from the entire tenor of the circular that what is talked about in the first paragraph is the maximum period for which an official can be allowed to stay on such a post and not the tenure given to an official on such a post. Therefore, the first ground on which the relief has been sought does not help the applicant.

7. As far as the question of penal nature of transfer is concerned, it is clear that the respondents are still in the ^{process} ~~nature~~ of carrying out the inquiry regarding the result of vigilance checking of stores at Moradabad and Chandusi. They have not reached any *prima facie* conclusion. The fact of discrepancy in the stores has led the respondents to pass the transfer order. Thus, the transfer order is related to the performance of the applicant on a post of sensitive nature and cannot be termed as penal. Therefore, on both the grounds, the application cannot be sustained.

8. The application is therefore dismissed as lacking in merit at the stage of admission itself. No order as to costs.



MEMBER (A)

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