

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 11th day of December, 2003.

Original Application No. 1512 of 2003.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.

Hon'ble Mr. D.R. Tiwari, Member- A.

Anil Kumar Srivastava S/o Sri Prem Bahadur Srivastava,  
Parcel Clerk/C.N.B, Office of the Deputy Traffic Manager,  
North Central Railway, Residing at K-29,  
Yashoda Nagar, Kanpur.

.....Applicant

Counsel for the applicant :- Sri V.K. Singh  
Sri B.P. Singh

V E R S U S

1. Union of India through its General Manager,  
North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway,  
Allahabad.
3. Deputy Chief Traffic Manager,  
North Central Railway, Kanpur.
4. Senior Commercial Manager, Allahabad.
5. Sri Arvind Kumar Kashyap, Chief Booking Supervisor,  
At present working as Special Commercial Inspector,  
North Central Railway, Kanpur.

.....Respondents

Counsel for the respondents :- Sri A.K. Gaur

O R D E R

By Hon'ble Mr. Justice S.R. Singh, V.C.

The applicant, a Senior Booking Clerk/CNB at Kanpur,  
under punishment of reversion for 10 years w.e.f 25.10.2002  
has been transferred, vide order dated 10.11.2003, to work  
against vacant post of Senior Booking Clerk at Mainpuri  
and he has been served with a memo of charge dated 21.11.2003

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wherein he is said to have refused to receive his transfer order dated 10.11.2003 from Kanpur to Mainpuri and falsely reported sick on 11.11.2003. The impugned transfer order is sought to be assailed, interalia, on the ground that the applicant's daughter Km. Anita Srivastava (aged about 14 years) is studying in class IXth in Dr. Virendra Swaroop Education Centre at Kanpur and his son Sri Nilesh Kumar Srivastava (aged about 12 years) is studying in class VIth in the same institution and his wife is not maintaining good health. In the circumstances, it is alleged, the transfer of the applicant in mid-academic session shall jeopardize the study of his children. He also alleged that there are employees facing disciplinary proceedings but they have not been transferred, while the applicant has been arbitrarily picked-up and transferred in mid academic session. This, according to the learned counsel, is tantamount to hostile discrimination and violative of Article 14 of Constitution of India.

2. Sri A.K. Gaur, Learned Standing Counsel, in reply, has submitted that the transfer being an incidence of service is not open to challenge except on limited grounds of the order having been passed in breach of statutory provisions or being an order suffering from the vice of malafide. None of these grounds, it is alleged by the learned counsel for the respondents, is available in the instant case. It is also submitted by the Learned Standing Counsel that the applicant ought to have made a representation to the concerned authority for redressal of his personal grievance, if any, arising out by his transfer during the mid academic session.

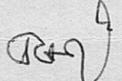
3. Having heard the counsel for the parties and also hearing regard to the facts and circumstances of the case, we dispose of the original application at the admission stage itself with the direction that in case, the applicant prefers

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a representation to the higher authority namely the Divisional Railway Manager, North Central Railway, Allahabad within 15 days from today, the letter shall consider and decide the representation expeditiously by means of reasoned and speaking order. It is further provided that pending decision on the representation, effect and operation of the impugned transfer order in so far as it relates to the applicant shall be kept in abeyance and charge memo dated 21.11.2003 shall also remain suspended. The original application is disposed of accordingly.

4. Copy of the order may be made available to the counsel for parties within 48 hours.

  
Member- A.

  
Vice-Chairman.

/Anand/