



Shri Kastur Lagharbhai Vaghela,  
Behind Refugee Colony  
Parasanagar, Rajkot.

: Applicant

Versus

1. The Union of India  
Owning and Representing  
through its General Manager,  
Western Railway, Churchgate,  
Bombay.
2. The Divisional Railway Manager,  
Western Railway, Kothi Compound,  
Rajkot.

: Respondent

ORAL ORDER

13/1/1989

Per: Hon'ble Mr. P.H. Trivedi

: Vice Chairman

Heard Mr.D.R.Chaudhary and Mr.B.R.Kyada, learned advocates for the applicant and the respondent.

Mr.Chaudhary has forcefully contended that the impugned order of transfer at page 29 has been passed arbitrarily because inspite offavourable reports about satisfactory performance as Ticket Collector, the petitioner instead of being considered for promotion is being sent to Happa. In support of his contentions, Mr. Chaudhary has drawn my attention to the background of the case in which initially in 1985 by mutual willingness, the petitioner was transferred at Jamnagar and his work was sought to be supervised for a period of six months for presumably his promotion. The contentions of the learned advocate are not adequate for establishing his case because the petitioner is admittedly a transferable officer and he has actually accepted his transfer in the past and it is not disputed that the authority transferring him to Happa. The only ground on which the ~~petitioner~~ transfer is resisted is due to arbitrariness or malafides but <sup>from</sup> the pleading in the contention during the hearing, I do not find there is any malafide or ulterior motives. The respondents have disputed that the petitioner's

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performance during the period of six months for which he has observed was initially as satisfactory and he states that the the petitioner does not sufficient <sup>reason</sup> ~~elements~~ of being sent to Happa.

I find that the impugned order is not in terms of transfer but even were it so construed, there is no deficiency in competence or of the authority making the order or any other ground for interfering with the said order. The earlier background shows that the petitioner was transferred by mutual consent at Jamnagar as far as back as in 1985 and even in the normal course of the period for which he should be retained at one station may be regarded as having adequately being posted at Jamnagar. The question whether his work was satisfactory or not also does not <sup>concerns</sup> ~~deny~~ because it would not add upto any entitlement for promotion or any protection against transfer until such promotion in due course were allowed. I, therefore, do not find any ground for interfering with the said order.

In view of the fact that, the petitioner belongs to the Schedule Caste and that he has to be <sup>reported</sup> ~~assessed~~ for satisfactory performance of his work and that there are on record some report for his work ~~was~~ <sup>was</sup> satisfactory, a note of <sup>caution</sup> ~~quashing~~ before implementation of the transfer order is due. It ~~w~~ would be in the fitness of the case, if the DRM under whose overall performance the petitioner <sup>has</sup> worked, personally <sup>looks</sup> ~~links~~ at all the papers and satisfy<sup>ing</sup> himself that none of the subordinate had any ulterior ~~or~~ motives which of course is neither disclosed nor established during the contentions raised in the hearing or <sup>on</sup> the pleadings as a double safeguard against any injustice against the petitioner or due to any prejudice against him. It should be the <sup>purpose</sup> ~~purpose~~ for the DRM to

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complete his exercise within a period of one month and only after such an exercise is completed, the order which is impugned ~~to~~ be implemented.

With the observation and directions, ~~the~~ I find that the petition has no merit to the extent stated above and the case is rejected.

  
( P H Trivedi )  
Vice Chairman

a.a.bhatt