

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH
JODHPUR

10

.....
Date of order : 10.2.2000.

O.A.NO. 212/1998

Bhanwarlal Chouhan S/o Shri Gheesu Lalji, aged about 44 years, R/o Qutr. No. T-209 G, Railway Quarters, Nehru Park, Jodhpur, at present employed on the post of Head TTE in the office of Divisional CTI, Jodhpur, Northern Railway.

.....Applicant.

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Commercial Manager, Northern Railway, Jodhpur Division, Jodhpur.
3. Shri L.K.Vyas, Assistant Commercial Manager, Northern Railway, Jodhpur Division, Jodhpur.

.....Respondents.

.....
CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

.....
Mr.J.K.Kaushik, Counsel for the applicant.
Mr.S.S.Vyas, Counsel for the respondents No. 1 and.2.
None present for the respondent No.3.

.....
PER HON'BLE MR.A.K.MISRA :

The applicant had filed this O.A. with the prayer that the impugned transfer order dated 6.8.98 (Annex.A/1) be declared illegal and be quashed with consequential benefits. The applicant had also prayed for staying the operation of the transfer order as an interim relief.

2. Notice of the O.A. was given to the respondents who have filed their reply stating therein that due to a serious complaint by a lady passenger against the applicant, the applicant was transferred to Samdari by the impugned order on administrative grounds. It is also alleged by the respondents that the transfer was not on mala fide grounds or in colourable exercise of power. The applicant had been relieved of the post and, therefore, he is not entitled to any interim relief. The O.A. deserves to be dismissed.

3. After hearing the learned counsel for the parties, the applicant was not found entitled to any interim relief. Applicant's prayer for staying the operation of impugned transfer order was rejected.

4. We have heard the learned counsel for the parties and have gone through the case file.

5. It was argued by the learned counsel for the applicant that the applicant has been transferred as a measure of punishment. If the complaint was of a serious nature as alleged by the respondents then the applicant should have been chargesheeted and should have been proceeded-with departmentally. The applicant has levelled charges of mala fide against the respondent No.3 and there is no reason to disbelieve them. It is also argued by the learned counsel for the applicant that the transfer was a mid term transfer and, therefore, was against the established practice and departmental guidelines.



6. On the other hand, it was argued by the learned counsel for the respondents that it is not necessary to proceed against an employee by taking departmental action in cases of complaint. For smooth working the employee can be transferred to another place on administrative grounds keeping in view the complaints against him. He has also argued that against the applicant a foreign lady had made a complaint which was serious in nature. The gravity of applicant's misconduct could be judged by going through the complaint made by lady passenger which is Annex.R/2. In the instant case, the applicant has not been chargesheeted, therefore, it cannot be said that his transfer is by way of punishment. The applicant has been transferred in the interest of administration and in public interest.

7. We have considered the rival arguments. In our opinion, it is a well settled position that the transfer order can only be interfered with in cases where the transfer has been shown to be mala fide or in colourable exercise of power. Transfer made in administrative exigency and in the public interest cannot be interfered with. Keeping these principles in view, we have examined the matter in hand and have also gone through the complaint made by the lady passenger to the higher authorities in which the applicant's obscene activities in presence of lady passengers in first class cabin are narrated in detail. Keeping in view the complaint made by the lady passenger if the

(13)

applicant has been transferred from Jodhpur to Samdari no mala fide can be inferred out of this action. In fact, the activity of the applicant in the first class cabin in presence of foreign lady passengers has tarnished the image of the Railways in general and Railway employees in particular.

8. The allegations of mala fide are very easy to make but are quite difficult to establish, therefore, by simply making mala fide allegations against the respondent No. 3, the applicant cannot argue that his transfer was a result of mala fide action. The applicant was relieved of his post on the very same day he was transferred, by the impugned order Annex.A/1 dated 6.8.98 and since then applicant is not reporting on duty at Samdari, therefore, the argument relating to mid-term transfer has become devoid of merits. It appears that applicant was not sincere towards his duties in complying the transfer order. It should be noted by such transferred officials that they disobeyed such transfer orders which have not been stayed, at their own cost and peril.

9. In view of the above discussion, we are of the opinion that the impugned transfer order dated 6.8.98 (Annex.R/1) and consequent relieving order Annex.A/1 dated 6.8.98, are not liable to be interfered with. The O.A. bears no merit and deserves to be dismissed.

10. The O.A. is, therefore, dismissed. The parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

mehta

A.K. Misra
(A.K. MISRA)
Judl. Member

R/Copy
on 15/2/02
SAC
(S. Khan)

f + d
copy
SAC
AP

Part II and III destroyed
in my presence on 26.9.2006
under the supervision of
section officer () as per
order dated 29.1.2006

Section officer (Reverend)

26/2/06