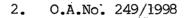
9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH, JODHPUR

Date of order: 25.8.99

1. O.A.No. 229/1998

- 1. Tulsa Ram S/o Shri Rachha Ram aged about 48 years, Resident of Vill. and PO Kawas Distt. Barmer, at present employed on the post of Pointsman 'A' in the office of Station Superintendent, Kawas, Northern Railway.
- 2. Harchand S/o Shri Keshra aged about 54 years, R/o Vill. and PO Kawas, Distt. Barmer at present employed on the post of Pointsman 'A' in the office of Station Superintendent, Kawas, Northern Railway.
- 3. Keshu S/o Shri Panna, aged about 40 years, R/o Vill. and PO Kawas, Distt. Barmer at present employed on the post of Pointsman 'A' in the office of Station Superintendent, Kawas, Northern Railway.



Uda S/o Shri Harda Ramji, aged about 42 years, R/o Vill and Post Koslu Distt. Barmer, at present employed on the post of Senior Pointsman in the office of Station Superintendent, Jajiwal Station, Northern Railway.

....APPLICANTS

versus

- Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
- 2. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur.
- 3. Divisional Operating Manager, Northern Railway, Jodhpur Division, Jodhpur.
- 4. Shri Sunil Panwar, Asstt. Station Master, Kawas Railway Station, Northern Railway.

....RESPONDENTS IN BOTH OAs

CORAM

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

Mr.J.K.Kaushik, Counsel for the applicants.

Mr.S.S.Vyas, Counsel for the respondents.

3



BY THE COURT

In both the O.As, the point involved and the relief claimed by the applicants is common, therefore, these two applications are disposed of by common order.

- 2. The applicants have challenged the impugned transfer order dated 1.9.98 (Annex.A/1) by which they were transferred from Kawas to Jajiwal, Banar and Asaranada, situated within the same Divisional control.
- 3. It is alleged by the applicants that the transfer order has been passed as a measure of penalty. It is a mid-term transfer order and affects the carrier of school going children of the applicants. The applicants have been transferred whereas the actual culprit Shri Poona Ram has not been transferred. It is also alleged by the applicants that a joint complaint was made by the applicants against the respondent No. 4 and Poona Ram about their conduct and activities. All the applicants have been transferred on account of this complaint only.
- 4. On the other hand, the respondents have replied that the applicants have been transferred on administrative grounds. The applicants were in habit of reporting on duty in drunken state. They were warned several times not to do so but instead of correcting themselves on this count they involved themselves in hooliganism. The applicants attacked one Trader named Ashok and the Assistant Station Master Shri Sunil Panwar on duty. A report of the incident was made to the higher authorities and in order to keep harmony and peace, all the Railway employees involved in that incident, were transferred. Shri Poona Ram was not involved in the said incident, therefore, there was no question of his transfer. The O.As bears no merit and are required to be dismissed.





- 5. I have heard the learned counsels for the parties and gone through the case file.
- 6. In the O.As there are no allegations of malafides against the respondents. There are also no facts relating to colourable The scope of interference in such transfer exercise of power. orders is very much limited. If the transfer is not in exercise of colourable exercise of power or has not been made in mala fide way, the same cannot be interfered with. Institution of cross cases by Uda Ram and Sunil Panwar, ASM, is in my opinion a reasonable ground to transfer the persons involved in such It is not necessary that in respect of each case of indiscipline or disobedience, a departmental inquiry is required to be instituted to straighten the administration. The transfer can be resorted-to to maintain discipline and peace, therefore, a transfer made in such circumstances, cannot be termed as punitive, as claimed by the applicant.
- 7. The applicants have challenged the transfer on the ground of mid-term transfer but this ground has come to an end because a new educational session has come in force from July this year. The applicants have joined their duties in pursuance of the transfer order at the new station. No case of transfer on mala fide ground or colourable exercise of power has been made out by the applicant, therefore, the same cannot be interfered with.
- 8. No doubt in the Police Report instituted by Uda Ram, Poona Ram has also been made an accused but he has not been transferred in spite of being involved in the incident, as alleged by the complainant Uda Ram. There were certain allegations against Poona Ram in the departmental complaints

& an



made by the applicants. Why he has been spared from being transferred is not clear from the record. However, the transfer of the applicant cannot be termed as bad simply because Poona Ram was not transferred. In my opinion, it was an administrative job to consider Poona Ram's transfer or retention at that station.

9. In my opinion, the applicants have no case for being granted the relief claimed by them. The Original Applications deserve to be dismissed and are hereby dismissed. The parties are left to bear their own costs.

Jan 1578199 (A.K.MISRA) Judicial Member

mehta

Remonstration 2/9/99 (5.18. Now White Strains of the Strains of th

in Mingh, IIII. destroyed
in my presence on the first-occurrence of
maker the supervision of
mak