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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....

OA NO.153/99.

DATE OF ORDER :06.07.99

Suresh Kumar Yadav S/o Shri Balbir Singh Yadav, R/o T-21, B Railway Traffic Colony, Stn.Road, Jodhpur, at present working as Sr.Pharmasist at Railway Hospital, Jodhpur.

Mr. P.R.Singh, Adv. for applicant.

.....APPLICANT

Vs.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel officer, Northern Railway, Jodhpur.
3. Chief Medical Superintendent, Northern Railway Hospital, Jodhpur.
4. Senior Divisional Medical Officer (Gen.&Adm.), Northern Railway Hospital, Jodhpur.
5. Assistant Personnel Officer, Jodhpur Division, Northern Railway, Jodhpur.

.....RESPONDENTS

Mr. S.S.Vyas, Adv. for respondents.

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HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER

HONOURABLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER MR. A.K.MISRA :

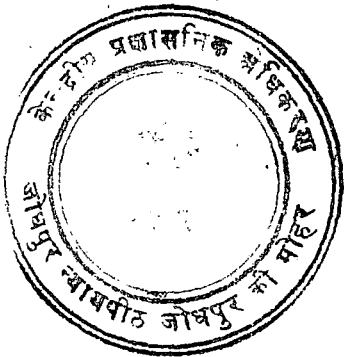
The Applicant has filed this Application with the prayer that the impugned order dated 7.5.1999 be quashed and set aside qua the applicant. He has further prayed that letter dated 17.5.1999 be also quashed qua the applicant and during the pendency of the O.A., operation of order dated 7.5.1999 (Annexure A-1) be stayed.

for



2. Notice of the O.A. was given to the respondents who have filed their reply and have stated that applicant and few others were transferred on administrative grounds as all of them were found consuming liquor during duty hours during the intervening night of 17th and 18th April, 1999. The O.A. deserves to be dismissed.

3. The applicant filed a rejoinder to which a reply was also filed by the respondents. After consideration, it was observed by us that the respondents have not pleaded anything new which is required to be countered by the applicant by filing a rejoinder, rejoinder was, therefore, not allowed to be taken on record.



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

5. It was argued by the learned counsel for the applicant that the applicant has been transferred from his present post due to prejudices of the senior officers. The applicant was transferred many times in the past. The present transfer is also made as a matter of punishment than on administrative exigency. He has also argued that the applicant who is under-going treatment relating to his ear has been transferred ignoring the fact that he needs specialised treatment for ailment of his ear.

6. On the other hand, it was argued by the learned counsel for the Railways that during the intervening night of 17th and 18th April, 1999, few of the staff members of the Railway Hospital, were found consuming liquor during duty hours and thus all of them were

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involved in an act of indiscipline and were showing conduct un-becoming of a Government servant. Therefore, all such persons who were involved in the act of indiscipline, were transferred on administrative ground. It was also necessary to transfer all of them so that they may not further aggravate the administrative problems by indulging in such an illegal act. He has further argued that no facts relating to mala fide or colourable exercise of power have been pleaded by the applicant, therefore, the transfer cannot be interfered with. The applicant was shifted from one place to another at Jodhpur itself which does not amount to transfer. It is only an adjustment of a Government servant from one place to another, therefore, frequent transfers of the applicant cannot be attributed to the authorities. He has also argued that there is nothing on record to show that applicant is taking specialised treatment relating to ailment of his ears. Even otherwise, applicant is being transferred to a District Headquarter where he can avail all the medical facilities which are available in a District level hospital.



7. We have considered the rival arguments. In our opinion, this is a settled position of law that transfers cannot be interfered with, if it is not ordered due to malafides or in colourable exercise of powers. Personal inconveniences of an individual employee are unimportant as compared to administrative exigency. It is not necessary that in every case of indiscipline, a departmental inquiry be initiated. To eradicate indiscipline or act of in subordination, a person can be transferred on administrative exigency.

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Smooth running of administration is the look-out of the Senior officers. How it is managed should be left to their own wisdom. If in the given circumstances Senior administrators thought it fit to disband the group of such indisciplined employees who were consuming liquor during duty hours then the same in our opinion cannot be categorised as penal action on the part of administrators. An employee can be transferred for his ~~illdeeds~~ without subjecting him to undergo a disciplinary action. In our opinion, consuming liquor during ~~working~~ hours and that too by hospital staff members can be and should be viewed seriously, therefore, in the given circumstances, the transfer order cannot be termed as an order punishing the applicant. The allegation of staff members having consumed the liquor cannot be ^{dis}believed simply on the ground that all of them or any one of them were not at the very moment medically examined. There is no reason to dis-believe the official stand on the matter. There is nothing on record which may go to show that the applicant can only be treated at Jodhpur for his ailment of ears and could get no medical help at Barmer. In our opinion, the impugned transfer order cannot be interfered with in the given circumstances of the case. The O.A. has no force and deserves to be dismissed.



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

Gopal Singh
(GOPAL SINGH)
Adm. Member

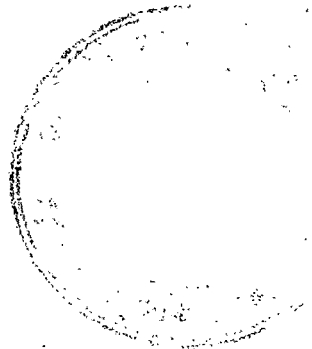
A.K. Misra
(A.K. MISRA)
Judl. Member

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MEHTA

Rec'd Cpy
S. S. 15/9

Copy sent to Petitioner
under No 209. dated 16/12/99



Part II and III destroyed
in my presence on 11.7.2006
under the supervision of
Section Officer (J) as per
order dated 16.11.2006

Section Officer (Record)