

I/8

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No. 171/2004
Date of Decision : this the 25th day of August, 2004.

Hon'ble Mr. G.R. Patwardhan, Administrative Member

Jairamaram S/o Shri Narain Ram
Aged about 45 years, resident of
Jatawas Lohawat, Tehsil Phalodi, District
Jodhpur at present employed on the post of
Pointsman 'A' in the office of Station Master
Marwar Lohawat, North/West Railway.

(By Mr. B. Khan, Advocate, for applicant)

.....**Applicant.**

versus

1. Union of India through General Manager
North/West Railway, Jaipur (Raj).
2. The Divisional Railway Manager,
North/West Railway, Jodhpur Division,
Jodhpur (Raj).
3. The Assistant Personnel Officer,
North West Railway, Jodhpur Division,
Jodhpur (Raj).

.....**Respondents.**

[By Mr. Manoj Bhandari, Advocate, for respondents]

Order
[By the Court]

O.A. 171/2004 has been filed by Jayramaram resident of Jatabas Lohawat and employed as Pointsman under the Station Master, Lohawat. The respondents are the Union of India through the General Secretary, North Western Railway, Jaipur (perhaps the applicant means the General Manager), the Divisional Railway Manager, Jodhpur and the Assistant Personnel Officer, Jodhpur. What is under challenge is an order dated 2.7.2004 placed at Annex. A/1 by which the Assistant Personnel Officer has transferred the applicant from Lohawat to Deshnok Station. The transfer order relates to eight other persons also, all



in the same scale of pay as the applicant. It shows that a substitute has also been posted.

2. On the last date i.e. 9.7.2004, on submission is being made by the learned counsel for applicant, an interim order was passed staying the operation of the impugned order at Annex. A/1 in so far as it related to the applicant.

3. Learned counsel for both the parties have been heard.

4. The main ground agitated by the applicant can be summarised below :-

- (i) The applicant belongs to Lohawat.
- (ii) His brother is also posted at Lohawat as Assistant Station Master who is not on good terms with him.
- (iii) His brother keeps on making false complaints and harassment.
- (iv) The local Sarpanch also initially made a complaint against him but, thereafter has withdrawn the complaint.
- (v) The son of the applicant is studying in Class X at Lohawat and transfer will affect his studies.
- (vi) The brother who is the Assistant Station Master, has engineered the transfer.

He concludes by saying that the impugned order is punitive in nature and amounts to penalty and, therefore, on the face of it, illegal, arbitrary and needs to be quashed.

5. The learned counsel for the respondents drawing attention to the detailed reply takes the basic objection by saying that the application itself is not maintainable for the reason that no infringement of any legal right has been brought out. Moreover, it is stated that the transfer is in public interest and takes care of



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the behaviour of the applicant who is involved in number of criminal cases.

6. The powers of this Tribunal have been amply explained in the judgement of Hon'ble the Supreme Court reported in AIR 2004 SC 2165 – State of U.P. and others Vs. Gobardhan Lal., wherein, their Lordships have made the following observations :-

"9. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer."

There is yet another aspect of the matter. The applicant has admitted that there is a family dispute going on and his brother who is the Assistant Station Master, is harassing him. In such a situation, prudent course for him would be to be away from the scene which would bring mental peace to him and his family. Continuing at such a place is in all likelihood to disturb the working of the Railways and endanger passenger safety. The application is without any merit, hence dismissed. The interim order issued on 9th July, 2004, stands vacated. No orders as to costs.

SK

[G.R.Patwardhan]
Administrative Member

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R/copy
Q/HQ

ACM
on 35/10/13
D/S

Part II and III destroyed
in my presence on 29/10/13
under the supervision of
Section Officer (R) as per
order dated 18/10/2013

D.B. Shrivastava
Section Officer (Records) 29.10.2013