

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW
ORIGINAL APPLICATION NO. 134/2005

This the 30th day of June 2005

HON'BLE SHRI S.P. ARYA, MEMBER (A)

Pr_ahlad aged about 43 years son of Sri Nannun resident of
Gate No.3, Railway Colony, Gomti Nagar, District- Lucknow.

...Applicant

By Advocate: Sri B.R. Singh

Versus

1. Division_al Railway Manager, N.E. Railway.
2. Sahayak Mandal Engineer (Line) Lucknow Junction.
3. Section Engineer (Rail Path) Badshah Nagar, Lucknow.
4. Sahab Singh Sahayak Mandal Engineer (Line) Lucknow Junction.
5. Sadhu Prasad Gateman Gate No.AML/B Gomti Nagar, Lucknow.

...Respondents

By Advocate: Sri N.K. Agrawal

ORDER

BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

Applicant on appointment as Gateman was posted at Badshah Nagar, Lucknow. While working at Gate No.2 A.M.L./B Gomti Nagar since April 2002, he was transferred by order dated 11.3.2005 by respondent No.4.

2. I have heard learned counsel for both the parties. and perused the pleadings.

3. It was contended ~~XXXX~~ on behalf of the applicant that the applicant has moved an application to SC/ST Commission on 30.7.2004 (Annexure -1) whereby a complaint against opposite party No.2 was made. It was alleged in that compl_aint that respondent No.2/4 used an abusing language and called him by caste. This application was moved on 30.7.2004. The complaint was enquired into by the respondents by Senior Divisional Engineer and complaint was found baseless. The statement of two SC Trolleyman and two OBC Trolleyman was also recorded. No bias was found

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in the complaint. There is no allegation that the report is biased. It is contended that ~~the~~ on submission of report not finding the respondent No.2 in abusing the applicant, respondent No.2 transferred him on 11.3.2005.

4. On the other hand counsel for respondents contended that applicant was not performing his duties well. He was required to cut down the trees, bushes or undergrowth that interfere or tend to interfere with view from the Railway or road way when approaching level crossing. He did not do the same. He was also punished for five times during his carrier.

5. The complaint which was sent to SC-ST Commission itself shows that the respondent No.2 has asked the name of the applicant. It does not explained^{to} how ~~the~~ caste came into light, On the basis of which the applicant was threatened. The enquiry of the ~~xxx~~ complaint has not been alleged to be biased. The transfer of the applicant has been made on administrative ground, ~~has no~~^{No 2} definite prove or evidence has been adduced by the applicant. The instance for which the complaint was made, occurred on 30.7.04. The applicant did not make any other complaint for the malicious attitude of the respondents. Mere allegation of malafide cannot be a ~~base~~^{basis} of interfering^{nee} in the transfer. An authority cannot be deprived of his right which is legally authorised to exercise on the mere ground that he has been complaint^{ed} against. The authorities have to take unpalatable decision in performance of duties. The transfer order has been passed after getting the approval of the Senior/ Competent authority who is senior to the transferring authority. It can, therefore, not be said that it was only the decision of the transferring authority. Malafide, accordingly is not established. The transfer on administrative ground cannot be interfered. However, if the applicant has got some difficulties on transfer or personal problems in going to the place where he has been transferred, it is always open to him to make a

representation to the competent authority and the authorities in that case shall consider the difficulties of the applicant in getting him at ^{adjusted at} a place convenient to him.

6. With the above observations, O.A. is disposed of with no orders as to costs.

24/3/12
(S.P. Arya)
Member (A)

HLS/-