

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.350/2006
This the 06th day of September 2006

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Mohd. Rals, aged about 52 years, son of Shri Mahamood All,
resident of Village & Post : Isauli, Mohalla : Palthana, Sultanpur.
...Applicant.

By Advocate: Shri V.R. Chaube.

Versus.

1. Union of India through the General Manager, Northern Railway, New Delhi.
2. Senior Divisional Personal Officer, (Karmik Department), Northern Railway, Lucknow.

By Advocate: Shri Arvind Kumar.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed Original application to quash the impugned transfer order dated 17.4.2006, transferring him from Lucknow Division to Ambala Division by the 2nd Respondent on the following grounds.

- (i). The impugned transfer order Ex.A-1 dated 17.4.2006 issued by 2^{ne} Respondent is neither in Public interest nor on Administrative grounds but only to harass him.
- (ii). As per service conditions, the applicant cannot be transferred till the completion of departmental Inquiry.

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2. The respondents filed Short Counter-Affidavit stating that the applicant has been transferred on Administrative grounds and the same is mentioned in the impugned order but in spite of relieving him he has not joined in the new place on Medical ground. It is also stated that on 17.9.2005 a check was conducted by the vigilance team in the Booking Office of Musafirkhana and detected excess amount from the applicant cash upon which a Charge-sheet was served on him on 6.1.2006. After the service of charge-sheet, applicant has been reinstated from suspension and his continuance at Musafirkhana shall affect the disciplinary inquiry and as per the advise of competent authority, he has been transferred on administrative grounds with post to another Division. They also admit, as per the Railway Servant (Discipline & Appeal) Rules, 1968 the transfer from one division to another division is prohibited during the pendency of disciplinary case but because of the Vigilance advise and on its recommendation, the applicant has been transferred from Musafirkhana to Ambala. Thus, opposed the claim of the applicant.

3. Heard both sides.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for?

5. Admitted facts of the case are that the applicant has been working as Assistant Station Master at Musafirkhana in Lucknow Division since 2004. It is also not in dispute that on 17.9.2005 when there was a check conducted by the Vigilance Team in the Booking Office of Musafirkhana, they found excess amount from the applicant, upon which they have initiated a Disciplinary proceedings after serving charge-sheet on 6.1.2006 and the said inquiry is still

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pending. Admittedly no investigation is pending against the applicant and the Disciplinary proceedings have been initiated after serving the charge-sheet on the applicant. Basing on Preliminary report, the applicant has been transferred from Musafirkhana to Ambala Division vide impugned order dated 17.4.2006.

6. The applicant has challenged the impugned order Ex.A-1 dated 17.4.2006 mainly on the ground, that per Rule 10 of the Railway Servants (Discipline & Appeal) Rules, 1968, it prohibit transfer of non-gazetted railway staff from one division to another against whom disciplinary case is pending. In support of it, he also relied on the decision dated 14.5.2001 passed in O.A.No.326/2000 by Central Administrative Tribunal, Allahabad Bench in the case of S.R. Verma Vs. Union of India & Others.

Rule-10 of The Railway Servants (Discipline & Appeal) Rules, 1968 says as follows: " The non-gazetted railway staff against whom a disciplinary case is pending or is about to start, should not normally be transferred from one Railway/ division to another Railway/ division till after the finalization of departmental/criminal proceedings, irrespective of whether the charges merit imposition of a major or a minor penalty."

7. Thus Rule 10 of the Railway Servants (Discipline & Appeal) Rules, 1968, it is clear that when a Disciplinary case is pending against the applicant, transferring him from one division i.e. Lucknow Division to another Division i.e. Ambala Division by the 2nd Respondent is against the sprit of the said rule. The citation of C.A.T., Allahabad Bench In the case of S.R. Verma is also supporting the arguments of the applicant in respect of transfer of non-gazetted railway employees, while a disciplinary case is pending against him. From the above discussions, it is clear that the transfer of the

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applicant from one division to another division is against Rule-10 of the Railway Servant (Discipline & Appeal) Rules, 1968 and as such, the applicant is justified in questioning the validity of the impugned order Ex.A-1 dated 17.4.2006.

8. In the result, ~~the application to quash~~ the impugned order Ex.A-1 dated 17.4.2006 transferring the applicant from Lucknow Division to Ambala Division is set-aside and thus the application is allowed. No order as to costs.



(M. KANTHAIYAH)
MEMBER (J)

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