

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH**

Original Application No.113/2006

This the <sup>15</sup>09 day of May 2008

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

Amar Nath aged about 49 years, son of Sri Ram Ratan resident of \_\_\_\_\_ posted as Shunting Porter at Railway Station Hardoi.

...Applicant.

**By Advocate: Shri S.B. Singh.**

Versus.

1. Union of India through the Secretary Government of India Railway Department (N.R.), New Delhi.
2. Senior General Manager Northern Railway, Baroda House, New Delhi.
3. Senior Regional Running Manager, Northern Railway, Moradabad.
4. Assistant Establishment Officer, Northern Railway, Moradabad.

... Respondents.

**By Advocate: Shri N.K. Agrawal.**

**ORDER**

**BY MR. M. KANTHAIAH, MEMBER JUDICIAL.**

The applicant has filed OA under Section 19 of the Administrative Tribunal Act, 1985 with a prayer to quash the impugned transfer order Dt. 23.3.2006 (Annex.-1) under which the applicant has been transferred from the post of Shunting Porter of Railway Station, Hardoi to Railway Station, Jwalapur. He challenged the impugned transfer order on the ground that the respondent authorities have transferred him with a malafide intention not to attend enquiry initiated against him by the department and also it is mid term transfer and his children are studying and he is a sick person and getting treatment at Hardoi.

2. The respondents have filed Counter Affidavit, denying the allegation made by the applicant in challenging the impugned transfer order.

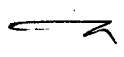
3. The applicant has filed Rejoinder Affidavit.

4. Heard both sides.

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

5. The admitted facts of the case are that the applicant while working Shunting Porter at Railway Station Hardoi, has been transferred to Jwalapur covered under Annexure-1 Dt. 23.2.2006. Before issuing of such transfer order, admittedly, the respondent / department issued show cause notice covered under Annexure-A-7 Dt.21.02.2006 alleging that the applicant violated the provisions of Railway Servant (Conduct) Rules, 1966 by filing false complaint against CMP, Balamau and asked him to file reply within 15 days. But, in the meantime, before submitting his reply, he has been transferred from Hardoi to Jwalapur covered under Annexure-1. Immediately, the applicant also made representation to the respondent authorities for cancellation of his transfer order covered under (Annexure-8) on the ground that the same has been issued with malafide intension not to attend the enquiry against him and also its going to cause inconvenience to his children, who are to school going and also he is a sick person getting treatment at Hardoi for the last three months.

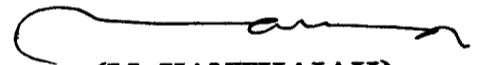
6. The applicant has filed the OA on 03.03.2006, challenging the impugned transfer order (Annexure-A-1) Dt. 23.2.2006 after making representation to the respondent authorities for cancellation of his transfer order covered under (Annexure-8) Dt.25.02.2006. After hearing the counsel, this Tribunal has stayed the impugned transfer order on 23.02.2006. Subsequently, the respondents have filed their Counter Affidavit, in which they are categorically stated that the applicant has been posted back to his previous station Hardoi from Jwalapur in view of the order of the Tribunal Dt.



03.03.2007. From which, it is clear that the impugned transfer order has been cancelled and considered the representation of the applicant for his posting to the same place of Hardoi.

7. In view of the above circumstances, when the respondents itself cancelled the transfer of the applicant and posted him back to his last station Hardoi, issuing of any direction to the respondents authorities does not arise.

8. By way of Rejoinder Affidavit, the applicant has stated that the respondents authorities have not paid salary after of stay by this Tribunal but the same is not at all the subject matter of this OA for giving any finding. If the applicant is aggrieved with such non payment of salary etc. he may file representation for consideration of such request and if he is aggrieved with such order he is at liberty to move separate petition. No order as to costs.

  
**(M. KANTHAIYAH)**  
**MEMBER JUDICIAL**  
09-05-2008

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