

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION No: **334/2006.**

This the 22nd September 2006.

HON'BLE MR. M. KANTHAIAH, MEMBER(J)

Ram Pal, aged about 55 years,
son of Late Shiv Lal,
Resident of 166-Gandhi Nagar,
Siddhauri District Sitapur,
Employed and posted as Key Man in Gang No. 12 L.B.
Under Section Engineer (Rail Path) N.E.Railway Sitapur.

Applicant.

By Advocate Shri Peram Shanker for Shri M. Nasserullah.

Versus

By Advocate Shri K.K. Shukla.

1. The Union of India through the General Manager,
Manager, N. R. Railway, Gorakhpur.
2. The Assistant Divisional Engineer,
N.E. Railway Sitapur.
3. The Section Engineer (Rail path)
N.E. Railway Sitapur.


Respondents.

By Advocate Shri K.K. Shukla.

Order

By Hon. Mr. M. Kanthaiah, Member(J)

The applicant who has been working as Class IV employee discharging duties as Key Man in Gang No. 12 LB North Eastern Railway filed the Original application to quash the transfer orders issued by 2nd respondent covered under Ex. A.1 dated 26.7.2006 and transferring him to Gang No. 28 Lakhimpur under Section Engineer (Rail Path) North



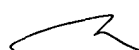
Eastern Railway. He sought interim relief for stay of operation of such transfer orders.

2. The respondents has filed preliminary objections stating that the applicant along with another employee Mr. Mukesh Kumar both were transferred from Sitapur to Lakhimpur whereas, Mukesh Kumar has obeyed the transfer order and joined in his new place whereas the present applicant filed this application with false facts. He further stated that the transfers orders itself shows that the competent authority Assistant Divisional Engineer has passed transfer order and in pursuance of such orders, Section Engineer has informed the applicant and spare stand relieved on 26.7.2006 along with the form of requisition for emergent duty passes issued to the applicant and as such he has been stand relieved on 26.7.2006 itself and in such circumstances, interference of this Court does not arise. He also further stated that the transfer order has been passed on administrative purposes and also in public interest and as such applicant has no right to seek for any of the reliefs and 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.

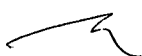
5. Admittedly, the applicant has been working as Key Man in Gang No. 12 L.B. Sitapur and by virtue of this impugned transfer order covered under Ex. A1 dated 26.7.2006, he has been transferred to another Branch¹¹ of Gang No. 28 Lakhimpur and both are under the supervision of 3rd² respondent. It is also not in dispute that there was a punishment order of censure against the applicant for negligence in patrolling duty and the respondents have passed such punishment orders on 25.7.2006 covered



Ex. A.2 which is one day prior to the date of his transfer from one Section of Engineer Branch to another Section of Engineer Branch. The recitals of Ex.A.1 impugned transfer order shows that the applicant has been transferred on administrative grounds.

6. It is the case of the applicant the 3rd respondents bore grudge against him and during the year 2005, at his instance, he was placed under suspension for about more than 10 days but because of 2nd respondent, he was taken on duty and it is also his apprehension that the 3rd respondents is waiting for an opportunity to take action against him and thus he attributed malafide for his transfer from Gang Man 12 LB sitapur to Gang Man 28 Lakhimpur. Admittedly, the 2nd respondent is the Assistant Divisional engineer under which, the 3rd respondents Section Engineer is working. As per the impugned transfer order, the applicant has been transferred by the 2nd respondents and in pursuance of such proceedings, 3rd respondent has issued the reliving order. It is not the case of the applicant that the 2nd respondent who is a competent officer to issue transfer orders against them is having any malafide against him and thus he has not attribute any ill motives to the 2nd respondents.

7. But his entire grievance is against respondent No. 3 who is neither competent officer nor final authority to issue any proceedings against the applicant. As such, by making allegations against the third respondent, it is not open to the applicant to question ^{the} ~~of~~ validity of transfer orders issued by the respondent No. 2 upon which the respondent No. 3 passed such reliving orders. Further, the transfer of the applicant is from one section of Engineer Branch to another Section of Engineer Branch and due to which, no prejudice will be caused to the applicant and his

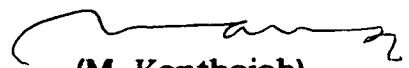


apprehension that the third respondent is against him and due to which he is anticipating trouble in his hands is not at all a justified to question the transfer orders issued by the second respondent who is the competent authority and because of such transfer orders, the third respondent has issued reliving order of the applicant.

8. From the above circumstances, it is clear that the second respondents is the competent authority and further no material is placed against the second respondent to show that he transfer^{ed} and the applicant with any malafide intention. There was a punishment of censure against the applicant and such orders have been passed prior to this transfer orders and the ground for transfer orders also shows on administrative reasons. In such circumstances, applicant has failed to place any prima-facie case to claim the interim relief for stay of operation of the transfer order. Further the transfer of the applicant has been issued transfers^{ing} him from one Section of Engineer Branch to another Section of Engineer Branch and due to such transfer causing any loss or prejudice to the applicant also does not arise.

9. IN view of the above circumstances, there are no merits in the claim of the applicant for grant of stay of operation of transfer orders covered under Ex. A. 1 till the disposal of main application and as such, his claim for stay of transfer order is liable to be dismissed.

10. In the result, the claim of the applicant for stay of operation of transfer is covered under Ex. A. 1 is dismissed without any order as to costs.


(M. Kanthaiah)
Member(J) 22.9.06