

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH**

Original Application No.368/2006  
This the 30<sup>th</sup> day of August 2006

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

Kamini Prasad son of Sri Ram Naresh , resident of Village & Post  
-Bel Bharliya Pargana, Tehsil & , District-Gonda.

...Applicant.

By Advocate: Shri N.N. Jaiswal.

Versus.

1. Union of India through Secretary, Ministry of Railways, New Delhi.
2. D.R.M., Northern Eastern Railway, Lucknow.
3. Chief Section Engineer, C&W Depot, Gonda.

By Advocate: Shri N.K. Agrawal.

**ORDER (Oral)**

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

This is the application by the applicant questioning the impugned transfer order Ex. A-1 dated 26.7.2006 of the applicant transferring him from C&W Depot. , Gonda to C&W Depot. , Gorakhpur on the following grounds.

i). That the applicant has been transferred due to malafide intention to harass him.

ii). There is an enquiry against the applicant at Gonda, and also a case is pending before the Labour Court, and not to allow him attend the same, by way of this transfer.

iii). His children's are studying in local school at Gonda and because of this transfer in mid-session it will effect their studies.

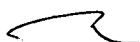
2. The respondents have filed their Preliminary objections stating that the applicant has been transferred on administrative ground, but not with any malafide intention. The applicant who was on casual leave on 3.8.2006, and not joined his duty on 4.8.2006, but sent an application for leave from 3.8.2006 to 7.8.2006 which was not considered due to transfer orders. Further when the applicant failed to join duty on 7.8.2006, the applicant was spared to Gorakhpur on his transferred post, with a prior notice to collect his spare letter which he failed to do so. They also further stated that as per the guidelines of the Indian Railway Establishment Code, Volume-I, that the competent authority may transfer a railway servant from one place to another and thus opposed the application.

3. Heard both sides.

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

5. The admitted facts of the case is that the applicant who has been working on the post of Technician Grade -II in C&W Depot., Gonda has been transferred to C&W Depot., Gorakhpur, under Ex.A-1 transfer orders.

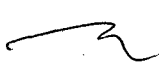
6. The main contention of the applicant is that he has been transferred due to malafide intentions and also to harass him. One of the malafides attributed that a case is pending in Labour Court and an enquiry is pending against him at present place at Gonda and he has been transferred to Gorakhpur not to attend court and such



enquiry proceedings . Attending of his case in Labour Court and also enquiry proceedings are in the hands of the applicant and transfer to another place is not at a justified ground to avoid such proceedings. Further, proceedings of the enquiry and case in a Court of law are not at all justified grounds for attributing any malafides for his transfer and if such grounds are taken to be genuine , every employee will resort to such method of operation inviting many number of departmental enquires and filing of case in a court of law. Thus the argument of the applicant causing of any prejudice to him on the above ground for his transfer is not at all sustainable.

7. Coming to the other grounds of effecting the studies of his children who are studying in a local school, now a days there is no problem of getting school education in all places and also no problem of getting admission in the schools at Gorakhpur and thus there is no weight in such argument for attributing any malafides for his transfer from Gonda to Gorakhpur.

8. Further the applicant has been working in this place of Gonda since last several years and he has no vested interest to remain there alone, since he hold transferable post and thus he is liable to be transferred from one place to another and further the transfer order has been issued by the competent authority which did not violate any mandatory rules. Added to it, there are no valid grounds to attribute any malice for transferring him from present place of Gonda to Gorakhpur. In view of the above circumstances, this Tribunal is not justified to interfere with the order of transfer as such the application is liable to be dismissed.



9. In the result, the application questioning the order of Respondent 2 under Ex. A-1 dated 26.6.2006, transferring the applicant from C&W Depot, Gonda to C&W Depot, Gorakhpur is dismissed. No costs.

  
**(M. KANTHAIAH)**  
**MEMBER (J)**

30.8.06

Ak/.