

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 250/2009

This the ¹⁵4 day of December, 2009

Hon'ble Ms.Sadhna Srivastava, Member (J)

Khadim Ali aged about 52 years son of late Sri Ghulam Ali, resident of 529/G.261, Kamla Nehru Nagar, Ring Road, Khurram Nagar, Lucknow, presently posted as Office Superintendent Grade I, Divisional Railway Manager (Personnel), North Eastern Railway, Lucknow.

Applicant

By Advocate: Sri A.Moin

Versus

1. Union of India through its Secretary, Ministry of Railways, New Delhi.
2. General Manager, (Vigilance), North Eastern Railway, Gorakhpur.
3. Divisional Railway Manager (Personnel), North Eastern Railway, Lucknow.
4. Assistant Personnel Officer III, North Eastern Railway, Lucknow Division, Lucknow.
5. General Manager, North Eastern Railway, Gorakhpur.

Respondents

By Advocate: Sri S.M.S.Saxena

ORDER

Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicant is challenging the order dated 22.12.2008 as contained in Annexure No.A-1,whereby he has been transferred from Lucknow to Gorakhpur.

2. The facts are that the Senior Superintendent of Police, Gorakhpur by means of letter dated 7.8.2008 addressed to Member (Karmik), Railway Board, Delhi brought to his notice the criminal activities of one Subhash Dubey posted as Clerk in N.E. Railway, Gorakhpur. It was mentioned in the letter that some other members of staff were associated with said Subhash Dubey in carrying out criminal activities. The names of applicant i.e. Khadim All and Poonam Bajpai were also mentioned. It is on the basis of this letter that wheels of administration moved. Both of them were transferred out to Lucknow. Later on, the transfer

A


of Smt. Poonam Bajpai was cancelled. Khadim Ali did not get any relief at the hands of administration. He has joined at Gorakhpur under protest. By means of instant O.A., he is seeking quashing of transfer order.

3. Heard the counsel for parties and perused the pleadings.

4. The respondents have unequivocally stated in the counter reply that Khadim Ali has been transferred on the basis of letter of Senior Superintendent of Police, Gorakhpur dated 7.8.2008. The said letter is available on record as Annexure No.3. It clearly says that Khadim Ali and Poonam Bajpai should be posted away from Gorakhpur. What has been done is that the applicant Khadim Ali has been posted to Gorakhpur against an incomplete breach of request made by Senior Superintendent of Police, Gorakhpur. It is also relevant to mention that another employee i.e. Poonam Bajpai has been provided relief by the administration itself.

4. The learned counsel for the respondents has brought to my notice the Judgment of the Apex Court in the case of **Mohd. Masood Ahmad Vs. State of U.P. and others reported in (2007) 2 Supreme Court Cases (L&S) 806**. There is no manner of doubt that transfer is an incidence of service and judicial interference in the matter of transfer is to be avoided. However, the instant case is a peculiar case. The transfer has been made on the basis of letter of Senior Superintendent of Police, Gorakhpur. However, the said letter of Senior Superintendent of Police required the transfer to a place away from Gorakhpur. The transfer to Gorakhpur appears to be result of some misconception or misreading of the letter dated 7.8.2008. Therefore, this Tribunal is constrained to interfere in this transfer. Accordingly, the transfer order dated 22.12.2008 as

contained in Annexure No. A-1 is quashed in respect of applicant only. The O.A. is allowed without any order as to costs.


(Sadhna Srivastava)
Member (J)

HLS/-