

view of the promotional list in post category
alongwith the applicant one B. K. N. Khan was also
similarly promoted in order of promotion, was
transferred to B. K. N. Khan, to B. K. N. Khan (M. S. S. S.)
to B. K. N. Khan, whereas the applicant was transferred
to Lucknow, under respondent No. 3 in the
order dated 2.8.1970.
In the same capacity vide Article II, though as per policy
guidelines, transfer in the Rail way Department, an
employee is retained at one station for a least
for a period of 3 years, but due to utter surprise,
the applicant while working on the post as
mentioned in the impugned transfer order and hardly
he spent about 13 months of his joining at Lucknow,
he been transferred without any rhyme or reason
only with a view to accommodate the above mentioned B. K. N. Khan
and as such the impugned order of transfer
is colourable exercise of power, besides being in
violation of the policy guidelines and besides the
impugned order having been issued during the mid
surveillance and as such the impugned order of transfer
be quashed.

3. This is worthwhile mentioning the fact that despite issue of notice to the respondents, none of the respondents turned up, nor file any court reply, hence the court has proceeded ex parte against the respondents as would be obvious from the perusal of the order dated 13.11.2012.

-3-

4. I have heard the learned counsel for the applicant and have thoroughly gone through the records and the papers annexed to the application.

5. The learned counsel for the applicant while advancing the contents of the application and transfer order, has argued that the impugned transfer order being colourable exercise of power by respondent 1 and is being in violation of policy, guidelines and in misfeasance and just after a stay of about 13 months to the applicant at Lucknow; he has further argued that the impugned transfer order has been passed only with a view to accommodate the favouritism of Mr. A. Khan and as such the impugned transfer order be quashed and in support of his argument he has placed reliance on 1990 (6) Services Law Reporter, Madhya Pradesh High Court (Gwalpur Division Bench) in the case of M.K. Dubey (Petitioner) versus Madhya Pradesh State Agro Industries Development Corporation and others (Respondents) at page 530, wherein it has been enunciated that power of transfer is not an absolute and should not be exercised capriciously or simply to accommodate another favoured servant.

6. I have perused the above ruling.

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6. This is significant to find out that a perusal of the application of the impugned transfer order dated 14.2.92 (Annexure-1) and of the order dated 15.7.91 (Annexure-2) clearly show that the applicant joined Lucknow in the month of July/Aug. 88, 1991 and the impugned order has been passed at Lucknow. It is clear that to accommodate him at Lucknow in place of the applicant, thus, frangible to avoid discussion after scrutinising the entire record on record and keeping in view the circumstances of the case and having regard to the principles of law as enunciated in the above ruling, I find that the above arguments of the learned counsel for the applicant are much support from the above ruling at the facts of the case are found to be in resemblance of the above ruling.

7. Consequently, I find that the impugned order is colourable exercise of power and with a view to accommodate the aforesaid S. K. Khan at the cost of the applicant, which cannot be allowed to be sustained and as such the impugned order of transfer dated 14.9.92 (Annexure-1), as far as it pertains to the applicant, is hereby quashed and the application of the applicant is allowed as above. No order as to costs.

Member Judicial. 24.11.92

Lucknow: Dated 24.11.92.