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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
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Original Application No. : 1195/96.

XXXXXXXXXXXXXXXXXXXXX.

Date of Decision

26-08-97

U. S. Sonavane,

Petitioner/x

Shri M. S. Ramamurthy,

Advocate for  
the Petitioner

Versus

Union Of India & Others,

Respondent/s

Shri V. S. Masurkar,

Advocate for  
the Respondent

Coram :

HON'BLE SHRI. M. R. KOLHATKAR, MEMBER (A).

XXXXXXXXXXXXXXXXXXXXX.

- (1) To be referred to the Reporter or not ? x
- (2) Whether it needs to be circulated to other x  
Benches of the Tribunal ?

M. R. Kolhatkar  
M. R. KOLHATKAR  
MEMBER (A).

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1195/96.

Dated this Proclamation, the 26<sup>th</sup> day of Aug, 1997.

CORAM : HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

U.S. Sonavane,

Permanent Way-Inspector,  
Grade-I, Deolali Road,  
Bhusawal Division.

... Applicant

(By Advocate Shri M.S. Ramamurthy)

VERSUS

1. Union Of India,  
through the General Manager,  
Central Railway,  
Chhatrapati Shivaji Terminus,  
Mumbai - 400 001.

2. Divisional Rail Manager (P),  
Bhusawal Division,  
Central Railway,  
BHUSAWAL.

... Respondents.

3. Chief Permanent Way Inspector,  
Central Railway,  
Deolali,  
Nasik District.

(By Advocate Shri V.S. Masurkar)

: ORDER :

PER.: SHRI M. R. KOLHATKAR, MEMBER (A) .

In this O.A., the applicant has challenged the order of transfer dated 10.08.1996 transferring the applicant who was working as Permanent Way Inspector Grade-I at Deolali to the Office of the D.R.M., Bhusawal in Engineering Control on work charge post and the order of relief dated 11.08.1996. The contention of the applicant is that, he was never served with formal transfer order and that his transfer was ordered in terms of confidential instructions and that he was relieved on a Sunday. According to him, this action of relief on <sup>a</sup> ~~Sunday~~ <sup>by itself</sup> shows the malafide intention of the respondents. His <sup>further</sup> contention is that he belongs to

Scheduled Caste Community and a Union Office Bearer.

In his representation dated 16.08.1996 he has pointed out an incident of 18.07.1996 in which Mr. Manoj Arora, DEN (South) threatened him in his chamber that he will spoil his career and enter adverse remarks in his confidential report with red ink and he will not clear till he will become a General Manager and punishment will be imposed by issuing charge-sheet. According to him, the said officer bore a grudge against him because of his being a Scheduled Caste and because of his union activity and accordingly, he has been transferred. The transfer has also taken place in the middle of the academic term affecting the education of his children. Therefore, the transfer is bad in law, in view of the Supreme Court judgement in case of Karrupu Thevan & Others in addition to the malafide nature of the transfer.

2. The respondents have opposed the O.A. According to the respondents, the applicant was working at Deolali as Permanent Way Inspector since 1986 i.e. more than 10 years and his transfer is for administrative reasons. It is also contended that the applicant is no longer a Union Office Bearer, and that there are factions in the Union and infact, in terms of Headquarters letter dated 30.07.1996 which conveys the list of Office Bearers of Nasik Road (Open Line Branch) of NRMU for the year 1996, which is a nominated body, the name of the applicant does not figure. It is further contended that so far as the transfer in the middle of the academic year is concerned, the applicant can retain the railway quarter upto the end of the academic session for the year 1997. It is further stated that the applicant is being issued chargesheet

for careless and bad maintenance of tacks and in view of this, the applicant could not be continued in Deolali.

3. In rejoinder, the applicant has contended that the respondents have been inconsistent in enumerating the reasons for transfer. Different reasons are given, namely; administrative reasons, 10 years stay, no longer office-bearer, proposal to initiate disciplinary enquiry, etc. These reasons are mutually inconsistent and the <sup>very</sup> inconsistency underlines the fact that the transfer was ordered with malafide intentions.

4. At the argument stage, the respondents have quoted the circular of the Headquarters Office, Personnel Branch, Mumbai C.S.T., dated 20.10.1989 which indicates that the railway employees who belong to sensitive posts are to be periodically transferred and also shows the post of P.W.I.s listed <sup>under</sup> the department of Civil Engineering as 'Sensitive'. The Railway Board's letter No. E(L) 60UTI/31 dated 19.02.1960 on the subject of transfer of Railway servants who are office bearers of recognised Trade Unions, was also shown to me, the gist of which is that the unions' objections to the proposed transfer are to be brought to the notice of the Divisional Officer and if necessary, to the General Manager and the decision of the General Manager would be final.

5. The respondents have relied on several judgement of the Supreme Court, which are as follows :

- a) Union Of India V/s. S.L. Abbas  
1993 (3) JT 673.
- b) Rajendra Ray V/s. Union Of India  
AIR 1993 SC 148.
- c) Srichand V/s. Union Of India  
1992 20 ATC 474.

d) State of Madhya Pradesh V/s. S. Kaurav  
& Others

JT 1995 Vol.II SC 498.

In the last mentioned judgement, the Hon'ble Supreme Court had observed as follows :-

"The Courts or Tribunals are not Appellate Forums to decide on transfer of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or Tribunals are not expected to indict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by malafides or by extraneous consideration without any factual background foundation."

6. I have considered the matter. In my view, there is no substance in the contention of the applicant that the copy of the Transfer Order was not served on him or that the same was deliberately served on a Sunday. I am also not required to go into the question regarding the applicant being a Union Office Bearer because the instructions, in this regard do not appear to be attracted. No foundation has been laid for the contention that one Mr. Manoj Arora DEN (South) had any particular reason to bear a grudge against the applicant and that it was under his direction that the applicant was transferred on extraneous considerations. The respondents are prepared to permit the applicant to retain the accomodation till the end of the academic year. The judgement in Karrupu Thevan<sup>therefore,</sup> also does not apply to the facts of the case. Assuming<sup>that</sup> there were several reasons for the transfer of the applicant, that by itself does not take away from the validity of the

transfer. Admittedly, the applicant was staying at Deolali for more than 10 years. He was holding a sensitive post. If he had a bad record in the tract maintenance, the department was certainly within its right to transfer him to a less sensitive post in addition to initiating disciplinary action against him. There is no doubt that there are instructions that the SC/ST employees should not be transferred too frequently and not too far away from the original posting. In the instant case, however, the transfer is not outside the State or outside the region but it is from Deolali to Bhusawal and such transfer cannot be said to attract the mischief of the guidelines. In any case, no guidelines have been produced.

7. Considering from any angle, I am unable to persuade myself that the transfer order deserves interference. The O.A. has no merit and is therefore, dismissed with no order as to costs.

*M. R. Kolhatkar*  
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(M. R. KOLHATKAR)  
MEMBER (A).

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