

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 24/99

Date of Decision: 21/1/99

P.V.Rajulu

Applicant.

Shri G.K.Masand

Advocate for
Applicant.

Versus

Union of India & 3 Ors.

Respondent(s)

Shri P.S.Lambat

Advocate for
Respondent(s)


CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri.

- (1) To be referred to the Reporter or not? *No*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *No*

abp.


(R.G.VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO.24/99.

DATED THE 21st DAY OF JANUARY, 1999.

CORAM:Hon'ble Shri R.G.Vaidyanatha, Vice Chairman.

P.V.Rajulu,
Working as Chief Ticket Inspector,
Nagpur Division,
Of South Eastern Railway And
Residing at Flat No.205,
Building No.2,
Chetna Apartments,
Mankapur,
Nagpur-440 030.

... Applicant

By Advocate Shri G.K.Masand

V/s.

1. Union of India, through
The General Manager,
South Eastern Railway,
Garden Reach,
Calcutta-700 043.
2. Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Calcutta-700 043.
3. Divisional Railway Manager,
Nagpur Division of South
Eastern Railway,
Nagpur - 400 001.
- @. Divisional Commercial Manager,
Nagpur Division of South
Eastern Railway,
Nagpur-440 001.

... Respondents.

By Advocate Shri P.S.Lambat

I O R D E R

I Per Shri R.G.Vaidyanatha, Vice Chairman X

1. This is an application challenging the order of transfer dated 29/12/98. Respondents have filed reply opposing the application. I have heard the Learned Counsels appearing on both sides.

2. The applicant is now working as Chief Ticket Inspector of South Eastern Railway under Nagpur Division at Nagpur, has now been transferred alongwith the post to Sambalpur Division under the same South Eastern Railway. The applicant is challenging the order of transfer on the

ground, that it affects his family and children and it affects their education. It is also stated that it is a mid academic transfer. It is also stated that the applicant has suffered about 10 transfers in the last ten years. Applicant has already filed OA-811/98 challenging one order of transfer from Broad Gauge section to Narrow Gauge at Nagpur. That the applicant is being harassed by successive orders of transfers. This conduct of respondents in transferring the applicant frequently gives rise to inference that it suffers from malafides. There is no administrative exigency involved to transfer the applicant alongwith the post from Nagpur Division to Sambalpur Division which is in the State of Orissa. Therefore, the applicant has approached this Court for quashing the order of transfer.

3. The respondents in their reply have justified the order of transfer being purely in Administrative exigencies and in the interest of public. It is also stated that the applicant has been involved in number of Disciplinary Enquiry's and he has suffered punishments and the last order against the applicant is dated 20/10/98 by stoppage of increment for one year for refusal to co-operate with the Chief Vigilance Inspector. It is also stated that there are several complaints against the applicant who is holding a sensitive post and involves collection of money from public. Therefore, in the interest of administration, the applicant has been transferred alongwith the post. That the application challenging the order of transfer of applicant is not maintainable. Reference is also made to number of Supreme Court decisions on this point.

4. After hearing both the counsels, I do not find that any case is made out. It is well settled that an administrative order of transfer should not be



interfered with by a Court or Tribunal unless it is vitiated by malafides or is contrary to any statutory rules. The personal difficulties like illness, education problems or other family problems are no grounds for a Court or Tribunal to interfere with order of transfer though a representation may be made to the Competent Authority. All guidelines and policies regarding transfers are to be observed by Competent Authority or ~~if~~ not, a representation may be sent to the Higher Authority. But those policy decisions or guidelines cannot be a ground for urging a Court or Tribunal to quash the order of transfer.

(vide)

1) Union of India - VS - S.L.Abbas

AIR 1993(SC) 2444.

2) Mrs. Shilpi Bose and Ors. VS- State of Bihar

AIR 1991 (SC) - 532.

3) Gujrat Electricity Bd. and Anr - VS -

AS Poshani- AIR 1989 (SC) - 1433.

4) State of Madhya Pradesh and Anr. VS S.S.Kourav

AIR 1995 (SC) 1056.)

5. After going through the facts, I find that the applicant has been transferred alongwith the post from Nagpur to Sambalpur. There is no allegation of malafides against any particular officer of the South Eastern Railway at Nagpur Division. Merely, because the applicant had to be transferred few times, it cannot be said the order suffers from malafides. Atleast for the last three to four years, the applicant is working at Nagpur. It is brought out in the reply that number of Disciplinary Enquiry's and were initiated against applicant/since there are number of complaints, the Administration took the decision to transfer him. It cannot be said that the order of transfer is punitive as urged by the learned counsel for applicant. It is not necessary to initiate Disciplinary enquiry in

each and every case. Even if a Disciplinary Enquiry is initiated, it may take time and it does not mean that the office, after it finds that his work is not satisfactory and if transfer is necessary cannot be transferred in public interest. Infact, the last order against the applicant is in October, 98. Therefore, after initiating Disciplinary Enquiry and imposing penalty of stoppage of increment, the administration might have thought fit to transfer the applicant.

6. In the facts and circumstances of the case, it is not possible to quash the order of transfer. We have to take note of the objection of respondents that transfer is in public interest; having regard to the facts and circumstances of the case, I am not convinced about the grounds of applicant in challenging the order of transfer.

7. In the result, application is rejected at admission stage. There will be no orders as to costs.


(R. G. VAIDYANATHA)
VICE CHAIRMAN

abp.