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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH  
CIRCUIT SITTING AT NAGPUR

Stamp N-27/91 ( OA 214/91)

P.M.Anwane,  
R/o.50 Old Subhedar Layout(Extension),  
Nagpur - 24. .. Applicant

vs.

1. Union of India  
through  
General Manager,  
Central Railway,  
Bombay V.T.
2. The Divisional Rly.Manager,  
Central Railway, King's Way,  
Nagpur.
3. Shri S.S.Dandekar  
O.S.Gr.I,  
Divisional Rly.Manager's office,  
Central Railway,  
Nagpur.
4. Shri P.G.Patwardhan,  
O.S.Gr.(I),  
working under  
Divisional Rly.Manager,  
Central Railway,  
Nagpur. .. Respondents

Coram: Hon'ble Member(A) Shri P.S.Chaudhuri

Hon'ble Member(J) Shri T.Chandrasekhara Reddy

Appearances:

1. Mr.V.S.Yawalkar  
Advocate for the  
Applicant.
2. Mr.P.S.Lambat  
Advocate for the  
Respondents.

ORAL JUDGMENT:  
(Per P.S.Chaudhuri, Member(A))

Date:22-4-1991

This application under Section 19  
of the Administrative Tribunals Act was filed on  
20-3-1991. In it the applicant who is working as  
Office Superintendent Gr.I in the office of the  
Chief Inspector of Works(M), Nagpur is challenging  
the order dated 5-3-1991 by which he is transferred  
from Nagpur to Wardha.

(4)

2. Mr. V.S.Yawalkar, learned counsel for the applicant, moves the application for admission. This is opposed by Mr.P.S.Lambat, learned counsel for the respondents. Mr.Yawalkar sought to make out a case of **mala fide** and submitted that there had been a breach of instructions dtd. 29-7-1986(Annexure A/7 to the application) in which it has been indicated that:-"If two or more vacancies exist at a place, after catering for the requests already registered, the Sr.Persons out of the promotees should be - accommodated and juniors should be transferred out." We are not impressed with this submission. It is now well established that such instructions are only guidelines. Mere allegations of **mala fide** without concrete supporting evidence do not constitute actual **mala fides**. It is also well settled that transfer of a public servant made on administrative or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on grounds of **mala fides** - See *Union of India v. H.N.Kartania*,(1989)11 ATC 269 (SC). No grounds have been adduced before us which will render the impugned order illegal. No violation of statutory rules has also been brought to our notice. Against this background we are not inclined to interfere with the impugned order.

3. After having said this, we would make it clear that the applicant can make a representation to the appropriate authority seeking cancellation of the transfer order and it is open to the appropriate authority to consider such a request and pass appropriate orders. The applicant has made such an application

J.M.

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dtd. 7-3-1991 but no final orders have yet been passed in the matter. Considering the facts and circumstances of this case we are of the opinion that it would be appropriate to give suitable directions to the respondents in this regard.

4. We accordingly dispose of the application at the admission stage itself with a direction to the respondents to pass final orders on the applicant's representation dated 7-3-1991 by 31-5-1991. The applicant is at liberty to approach the Tribunal afresh, if so advised, if he continues to remain aggrieved after such final orders are passed. In the circumstances of the case there will be no order as to costs.

T. C. R.  
(T.C.S.REDDY)  
Member(J)

P. S. Chaudhuri  
(P.S.CHAUDHURI)  
Member(A)