

T. D.

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 474/98

Date of Decision: 20/8/98

Shri J.H. Surendra Petitioner/s

Shri V.P. Potbhare Advocate for the
Petitioner/s

V/s.

Union of India & 3 Ors. Respondent/s

Shri A.I. Bhatkar R-1 to 3 Advocate for the
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 *no*
other Benches of the Tribunal?

abp.

R. G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG.NO.6, 4th FLR, PRESCOT RD,

FORT, MUMBAI-400 001.

ORIGINAL APPLICATION NO.474/98.

DATED THE 20th AUGUST, 1998.

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

J.H.Surendera,
Permanent Way Supervisor,
under Section Engineer(Railway),
Permanent Way Igatpuri,
District-Nasik.

.... Applicant.

By Advocate Shri V.P.Potbharé.

V/s.

1. Union of India,
through Presenting Officer,
Central Administrative Tribunal,
Bench at Mumbai.
2. Senior Divisional Engineer(NE)
Chatrapati Shivaji Terminus(M),
Mumbai.
3. Assistant Engineer(M)Igatpuri,
(Railway) District-Nasik.
4. Bhanudas Karbhari Supervisor,
(Railway) Unit No.7, Working under
Section Engineer(P.Way)
Igatpuri,
District-Nasik.

.... Respondents.

By Advocate Shri A.I.Bhatkar-R-1 to 3).

I O R D E R I

I Per Shri R.G.Vaidyanatha,V.C. I

1. The applicant is challenging the order of transfer dated 6/5/98. Respondents have filed reply. I have heard both counsels regarding admission.

The applicant who is working as permanent way supervisor at Igatpuri has been transfeered in the same post to Kasara by order dated 6/5/98. The applicant is challenging the legality and validity of the same.

Respondents have filed ^{reply} ~~replied~~ justifying the order of transfer in administration exigencies. It is now fairly well settled by number of decisions of the Supreme

Court that order of transfer can be challenged or interfered with only if the order is malafide, *or contrary to any rule*.

As far as violation of any rule is concerned, the contention of the applicant is that respondent No.2 is the appropriate competent authority ~~who~~ can make the order or transfer. But in the present case, respondent No.3 has issued the Impugned order of transfer and therefore it is argued that it is bad in law and not sustainable. Respondents have explained in their reply that respondent no.2 is no doubt the competent authority for effecting transfer and he has given approval for the proposal made by respondent No.3 for transfers. ^{we} They have on record letter dated 1/5/98 issued by second respondent, approving the proposal of transfer submitted by respondent No.3. After getting the approval dated 1/5/98, respondent No.3 has issued formal order dated 6/5/98.

2. In my view there is substantial compliance of the rules and there is no violation of any rules in effecting the order of transfer.

As far as grounds of malafide is concerned, except making a vague allegation no proof is furnished in the application. There is no allegation that there is any ^{hostility} hostile or enmity between applicant and other Officers. Except for repeating the word malafide, there is no case made out for proving malafide, for challenging the order of transfer.

Another submission by learned counsel for applicant ^{is} that transfer can be effected only on the basis of seniority or if there are any complaints against any officer or if any misconduct is committed. In my view this argument has no merit. Transfer is an incidence of ^{and ordered in Public} service ~~in the~~ interest and exigencies of administration.

This Tribunal cannot sit in appeal over administrative decision regarding transfers. The argument that transfer should be effected only on the basis of



seniority or ^{on} by complaints does not stand *The Test of scrutiny.*

3. In my view no grounds are made out and hence the application is rejected.

h. In the result, the application is rejected at admission stage. No costs.


(R. G. VAIDYANATHA)
VICE CHAIRMAN

abp.