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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A No.275/99
M.A No.179/99

Date of order: 6.7.1999

Suresh Chand Yadav, S/o late Shri Kishori Lal Yadav,
R/o C-1/7, Road No.1, Ganpati Nagar, Jaipur, at
present H.T.T, in Western Railway Division, Jaipur.

...Applicant

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Senior Dy. General Manager & Chief Vigilance Officer, Western Railway, Churchgate, Mumbai.
3. Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.
4. Senior Divisional Commercial Manager, DRM Office, Jaipur.

...Respondents.

Mr. Pratap Singh Sirohi - Counsel for applicant

Mr. Manish Bhandari - Counsel for respondents.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. N.P. Nawani, Administrative Member.

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN.

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Suresh Chand Yadav has challenged the order at Annexure-A1 dated 28.5.99 by which he has been relieved and directed to report to the Chief Commercial Manager, Churchgate, Mumbai, for further orders.

2. We have heard the learned counsel for the parties and have carefully perused the record.
3. Applicant's case is that the impugned order was passed as a punitive measure and with malafide intention since the applicant himself had not man-handled Rajdev Pandey, vigilance Constable and the FIR pertaining to an incident of 8.12.98 did not actually contain his name. Only four persons, Ravi Chand Tiwari, B.L. Meena, Tufan Singh Meena and Bora Ram are named in the FIR wherein it is alleged that these four persons had beaten Rajdev Pandey and forcibly taken him to another Train. However, a preliminary enquiry was conducted against the applicant

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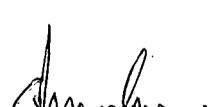
on 10.12.1998 and on the next day i.e. 11.12.98, he was placed under suspension. The applicant has not yet been served a charge-sheet. The order of suspension had already been revoked. The impugned order is assailed as being arbitrary and unjustified and was passed with a view to causing harassment to the applicant. It is vehemently urged that the applicant could have been transferred within the Division where he was serving and in the circumstances, his transfer to a place out side the Division is unreasonable.

4. The respondents on the contrary have stated that the impugned order has been passed in the interest of administration and that the applicant has not been transferred to the Mumbai Division but he has been directed to report to the Chief Commercial Manager, Churchgate, Mumbai. It is also alleged by the respondents that the applicant was placed under suspension in view of the fact that during the course of investigation, the applicant was found involved in the occurrence which is alleged to have taken place on 8.12.98. As per the directions of the General Manager, Western Railway, the applicant has been asked to report the Headquarters at Mumbai for further orders.

5. In the circumstances of the case, we direct the applicant to report within 10 days of this order to the Chief Commercial Manager, Churchgate, Mumbai, who shall pass an order of his posting, keeping in view the provisions contained in Rule 226 of the Indian Railway Establishment Code, Vol.I, Railway Board's letter No. E (D&A) 6SRG6-6 dated 25.3.1967 on the subject of transfer of Railway staff whose conduct is under investigation and the Board's letter No. E(NG)I/80/TR/28 dated 13.4.1989, the Office Order dated 30.6.99 issued by the Senior Divisional Commercial Manager and any other relevant instructions, etc. The O.A stands disposed of accordingly. If the applicant is aggrieved by the order passed by the Chief Commercial Manager, Churchgate, Mumbai, he may file a fresh O.A.

6. No order as to costs.

7. M.A No.179/99 has become infructuous. It is dismissed.


(N.P. Nawahi)
Member (A).


(Gopal Krishna)
Vice Chairman.