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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 17.02.2000

OA No.527/99

Ram Khiladi Meena S/o Shri Jai Ram aged about 37 years presently holding the post of P.W.I., Kota Division under transfer to Rajkot Division.

.. Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Sh. V.K.Gupta, Senior Divisional Engineer (North), Kota Division, Western Railway, Kota.

.. Respondents

Mr. C.B.Sharma, counsel for the applicant

Mr. T.P.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

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

ORDER

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

The applicant seeks quashing of order dated 29.10.1999 (Ann.A1) by which he has been transferred from Kota to Rajkot Division and order dated 1.11.1999 (Ann.A2) by which he has been relieved and further prays that respondents may be further directed to allow the applicant to work at Kapren (Bundi) under Kota Division.

2. It is stated by the applicant that he was initially appointed as P.W.I. Grade-III in Delhi Division in 1988 and joined Kota Division on request in 1990, where he was promoted to P.W.I. Grade-I in 1997. The

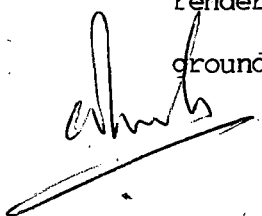
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applicant belongs to ST category and has two sons and one school going daughter. He alleges that he has been transferred on account of biased attitude of his superior, Shri V.K.Gupta, Senior Divisional Engineer (North) Kota, who had become annoyed with him as he had pointed out certain malpractices being committed by him and had also filed a F.I.R. against him. It is contended by him that action of the respondents in transferring him is arbitrary, illegal, unjustified, punitive and stigmatic. It is not in public interest but meant to damage the future of his children and his own life.

3. The respondents have filed a reply to which a rejoinder has been filed by the applicant. The respondents have taken a preliminary objection that applicant has approached the Tribunal without first exhausting the remedies available to him. It is stated that the transfer has been made by the competent authority on administrative grounds and there are no malafide intentions on the part of the respondents. It has also been mentioned that the applicant has already been relieved and one Shri Hokendra Singh has also joined in his place. Further, no transfer/posting policy of SC/ST employees has been violated by the respondents.

4. We have heard the learned counsel for the parties and have also perused the material on record.

5. Law is now well settled regarding the scope of Courts/Tribunals in the matter of interfering with the transfer orders of government employees. In the case of B.Vardarao v. State of Karnataka and ors., AIR 1986-SC 55, the Apex Court has laid down the law that an order of transfer should not be interfered with unless there are strong and pressing grounds rendering the order illegal on grounds of violation of statutory rules or grounds of malafide. In this case, transfer order has not been challenged



on the grounds of violation of statutory rules. However, the applicant has made allegations of bias against respondent No.3. The source of bias is alleged to be applicant's reporting of malpractices and his filing a F.I.R. against the said respondent. On the other hand, there appear to be charge-sheets against the applicant alleging, inter alia, indulging in actions totally against safety in two separate incidents and unauthorised/illegal removal of railway's property. In any case, the transfer order has not been issued by respondent No.3 but the competent authority (CTE) in the office of the General Manager, Western Railway, Churchgate, Mumbai. We do not think that the competent authority would be influenced to such an extent that he would issue a transfer order under bias. We also note that there is no allegation of bias against the said competent authority. We also observe that there are a number of charge-memos issued against the applicant containing serious charges.

6. In view of above discussions, we find neither violation of any statutory rules in the impugned order of transfer (Ann.A1) nor it being prompted by any bias. In the result, we would not like to interfere with the said transfer order. The OA, therefore, does not deserve to be accepted.

7. However, we also observe that the applicant seems to be having some personal problems, including disturbance in the education of his three children. Further, he has sought and obtained transfer from Delhi to Kota Division because of his domestic problems, sacrificing about two years of his seniority. In view of these factors, the respondents may like to extend some sympathetic consideration to him and explore the possibility of transferring to some place which is not as far as Rajkot Division.

8. We, therefore, dispose of this OA with a suggestion to respondent No. <sup>2</sup> ~~1~~ to consider whether the applicant can be transferred to a

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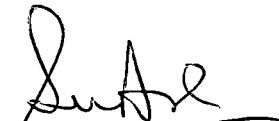
place within the Kota Division itself, if the applicant makes a representation to this effect within 15 days from the date of this order.

9. No order as to costs.



(N.P. NAWANI)

Adm. Member



(S.K. AGARWAL)

Judl. Member