

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**O.A No.351/2016  
M.A. No.3548/2016  
M.A. No.3672/2016 and  
M.A. No.609/2017**

**Reserved On:09.03.2017  
Pronounced On:15.03.2017**

**Hon'ble Mr. V. Ajay Kumar, Member (J)  
Hon'ble Mr. P.K. Basu, Member (A)**

Makhan Lal aged about 46 years  
 S/o Shri Shiv Charan Lal  
 Working as TTE, Moradabad,  
 Moradabad Division, Northern Railway,  
 R/o Sidharth Nagar, Jwala Nagar,  
 Distt. Rampur (UP). ...Applicant

(By Advocate: Shri H.P. Chakravorti and Shri P.S. Khare)

Versus

1. Union of India Through  
 The General Manager,  
 Northern Railway,  
 Baroda House,  
 New Delhi.
2. The Chief Commercial Manager/PS,  
 Northern Railway,  
 Baroda House,  
 New Delhi-110001.
3. The Divisional Railway Manager,  
 Northern Railway,  
 Moradabad. ..Respondents

(By Advocate:Shri V.S.R. Krishna and Shri Krishna Kant)

**ORDER**

**By Hon'ble Mr. P.K. Basu, Member (A)**

The applicant is a Ticket Examiner in the Railways and he was transferred on administrative ground from Moradabad (UP) to Ferozpur

in Punjab vide order dated 18.03.2015. In compliance of order of this Tribunal dated 20.08.2015 passed in OA No.2863/2015, filed by the applicant for cancellation of Inter Divisional Transfer Moradabad to Ferozpur, speaking order was passed, which was as follows:-

“Pursuant upon the orders of Hon’ble Central Administrative Tribunal, Delhi dated 20.08.2015, the representation of Shri Makhan Lal, TE/Bareilly, for cancelling the Inter Divisional Transfer from Moradabad to Ferozpur Division was considered.

I have carefully gone through the entire case including Vigilance Investigation Report, charges levelled against Shri Makhan Lal, TE/Bareilly along with relied upon documents, Inquiry report of the Inquiry Officer, defence and appeal of Shri Makhan Lal, TE/Bareilly. I have also gone through the policies/instructions and rules on the matter.

After applying my mind, I find that, consequent upon successful decoy check, Shri Makhan Lal, TE/Bareilly was transferred inter divisional on the recommendations of Vigilance. As per extant instructions, ticket checking staff indulging in malpractices, as a matter of policy, is invariably transferred on inter-divisional/inter zonal basis, as a measure of campaign against rampant corruption.

Reasonable opportunity under the principles of natural justice through fair and transparent inquiry, was given to Shri Makhan Lal, TE/Bareilly to prove his innocence. On inquiry, out of three charges, two major charges of corruption were proved against him.

The appeal of Shri Makhan Lal, TE/Bareilly, does not contain any new fact or evidence which have not been discussed earlier. However, keeping in view the family compulsions and education of his children, the only relief extendable on humanitarian grounds is posting to a division of his choice other than parent Division i.e. Mordabad.

Shri Makhan Lal, TE/Bareilly, should exercise the option for choice of division in writing within 1 month.

The orders are issued without prejudice.

Sd/-  
GM/NR  
15.10.2015”.

2. This order was circulated vide Northern Railway letter dated 16.10.2015 to be informed to the applicant.

3. The applicant had approached this Tribunal earlier in OA No.2863/2015 challenging the transfer order dated 18.03.2015 and vide order dated 20.08.2015, the Tribunal had directed the General Manager to consider and dispose of the representation of the applicant by passing a speaking order. It was further directed that the status quo as of 20.08.2015 shall be maintained.

4. Thereafter, the speaking order had been passed purely on humanitarian ground and applicant was granted time of one month to exercise his option for posting to a Division of his choice other than parent division, i.e. Moradabad. The applicant did not file any such option and has now come before us seeking the following reliefs:-

“(i) To allow the OA and quash and set aside the impugned transfer orders dated 18.03.2015 and 15.10.2015 (Annexure A-1 and A-2) with all consequential benefits; and

(ii) To direct the respondents to retain the petitioner in Moradabad Division with all consequential benefits of pay and allowance, seniority and promotion etc; and

(iii) To grant any other or further appropriate relief as deemed just and proper by this Hon’ble Tribunal as per facts and circumstances of the case, besides cost and expenses of the present litigation to the extent of Rs.1,00,000/-”.

5. In their reply, the respondents had stated that on administrative ground the applicant was shifted out. It is stated that the applicant while working as TE/BE was found responsible for the lapses as mentioned below:

- (a) For excess of Rs.1220/- in his Government cash which was deposited vide EFT No.463781 dated 26.02.2012 through conductor.
- (b) For demanding and accepting Rs.400/- as illegal money from the Decoy Passenger without issuance of any EFT/receipt which was recovered from his possession.
- (c) For carrying four irregular passengers in his manned coach No.S/4 in exchange of illegal money which made Government cash excess to the tune of Rs.1220/-.

6. That inquiry was conducted and all opportunities were given to the applicant, to prove innocence in order to maintain the spirit of natural justice but he failed to prove his innocence. From the discussion of available record of the enquiry, documentary, oral as well as defence adduced during the enquiry proceedings, the findings are as under:-

Article of charge No.1 proved.

Article of charge No.2 proved.

Article of charge No.3 is not proved.

7. That the disciplinary authority after going through the representation made by the applicant on the enquiry report, documents available on record and considering all aspects had

imposed upon him the penalty of “reduction to the lowest pay in same time scale GP of Rs.1900/- PB 5200-20200. His pay was reduced from the stage of Rs.10,410/- to the stage of Rs.7730/- for a period of five years with having effect of postponing the future increments of his pay”.

8. That the applicant had preferred an appeal against the orders of the disciplinary authority. The Appellate Authority on purely sympathetic grounds and in view to give him a chance to improve his conduct, reduced the punishment to “reduction from the stage of Rs.10,410/- to the stage of Rs.7730/- in Pay Band of Rs.5200-20200 Grade Pay Rs.1900/- for a period of 3 (three) years without having effect of postponing the future increments of his pay”.

9. We have heard the learned counsels and perused the record.

10. There can be no doubt that the administrative ground on which the applicant has been transferred cannot be questioned. The applicant, therefore, should have complied with the transfer order dated 18.03.2015 but instead of that, he had again come before this Tribunal seeking the same relief that his transfer be stayed and that he be retained in Moradabad Division.

11. It is almost 2 years that the applicant had been transferred and that he has not joined the new place of posting. The transfer was on

administrative ground for which full justification has been provided by the respondents in their reply.

12. We, therefore, find no irregularity or illegality in the orders dated 18.03.2015 and 15.10.2015 and the OA is, therefore, dismissed. The conduct of the applicant, who is a Government servant in filing OAs after OAs to stall his transfer, is extremely deplorable which has resulted in avoidable expenditure and loss of man-hours of the respondents in contesting this litigation along with waste of judicial time of this Tribunal. We award a cost of Rs.25,000/- on the applicant to be paid to the respondents within a period of one month from the date of receipt of a copy of this order.

**(P.K. BASU)**  
**MEMBER (A)**

**(V. AJAY KUMAR)**  
**MEMBER (J)**

Rakesh