

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/00023/2018
Date of Order : 17-07-2018

Between :

P. Victor Babu,
Aged about 34 years,
Oc: Track Maintainer-IV,
O/o SSE/P.Way/EE,
Vijayawada Division, South Central Railway,
Eluru, A.P.

....Applicant

AND

1. The Union of India
Rep by its General Manager, South Central Railway,
Rail Nilayam, III Floor,
Secunderabad-500 071.
2. The Senior Divisional Personnel Officer,
South Central Railway,
Vijayawada Division, Divisional Office Compounds,
Vijayawada, A.P.
3. The Senior Divisional Engineer/Central,
South Central Railway, Vijayawada Division,
Divisional Office Compounds, Vijayawada, A.P.
4. The Assistant Divisional Engineer/Eluru,
Vijayawada Division, South Central Railway,
Eluru, A.P.

...Respondents

Counsel for the Applicant: Mr.K.Sudhakar Reddy

Counsel for the Respondents : Mrs.Vijaya Sagi, SC for Rlys

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER

(Oral order per Hon'ble Mr.Justice R.Kantha Rao, Judicial Member)

(Oral order per Hon'ble Mr.Justice R.Kantha Rao, Judicial Member)

Heard Mr.K.Sudhakar Reddy, learned counsel appearing for the applicant and Mrs.Vijaya Sagi, learned Standing Counsel for Respondent Railways.

2. The Original Application is filed challenging transfer order dated 26.12.2017 issued by the 2nd Respondent transferring the applicant from Eluru to Nellore on the ground that it is punitive, malafide, illegal, arbitrary, unfair, unjust and contrary to the orders of the Revising Authority dated 06.10.2017.

3. Brief facts relevant for considering the present OA may be stated as follows :-

The applicant is Trackman Gr-IV in the Respondent Railways. On a report given by the Supervisor stating that, when the applicant came late, he questioned about the same and the applicant pounced upon him and manhandled him. A Criminal Case was registered against the applicant. Simultaneously a departmental enquiry was also initiated. In the Departmental enquiry an ex parte order finding the applicant guilty of the charge levelled against him was passed on the ground that the applicant and the defence counsel though present, did not participate in the enquiry. The Disciplinary Authority imposed punishment of removal from service. The applicant preferred an appeal against the removal order dated

08.07.2016 and the Appellate Authority confirmed the order passed by the Disciplinary Authority by order dated 23.03.2017. Against the said order passed in the appeal, the applicant preferred a revision and the Revising Authority modified the punishment order passed by the Disciplinary Authority to that of reduction to recruitment grade in Level-1 of pay matrix., i.e Rs.18000/- for a period of five years (Cumulative) with immediate effect. Challenging the punishment order, the applicant filed OA/020/1226/2016 before this Tribunal and the same is pending. At the time of hearing, the learned counsel appearing for the applicant would submit that after investigation, the Police referred the Criminal Case pending against the applicant as 'False'.

4. In their reply statement, the Respondents contended that the applicant committed serious misconduct of manhandling the Supervisor and therefore a charge sheet was issued, an enquiry was conducted as per the procedure prescribed under DAR Rules. The applicant did not attend the enquiry scheduled on 07.05.2016 and 21.05.2016. Therefore an ex-parte decision was taken to remove him from service. The version of the Respondents is that the post of the applicant is transferable and he can be posted at any place as per the administrative requirements and in public interest. Therefore contending that the transfer of the applicant is on administrative grounds and is in public interest, the Respondents sought to dismiss the OA.

5. The point for determination in the present OA is whether there are

any valid grounds to interfere with the impugned transfer order under which the applicant was transferred from Eluru to Nellore. The learned counsel appearing for the applicant contends that the Police referred the Criminal case initiated against the applicant as 'False', the applicant challenged the Disciplinary Proceedings in OA/020/1226/2016, the transfer order is punitive in nature and therefore requires to be set aside. On the other hand, the learned Standing Counsel appearing for the Respondents would submit that since the transfer is made on administrative grounds and in public interest, it needs no interference in the present OA.

6. The law is well settled on the issues relating to transfer. The Tribunal or the Hon'ble High Court should not interfere with the transfer of an employee unless it is made in violation of statutory rules or prompted by malafides. The applicant might have been transferred on account of the incident occurred in the Unit but no material placed on record by the applicant to show that the impugned transfer is prompted by malafides. Malafides have to be proved by the person who alleges the malafides.

7. It appears that for the smooth running of the Administration, the applicant might have been transferred from Eluru to Nellore. It cannot be set aside as it is neither arbitrary nor prompted by malafides. Therefore I do not see any reason to interfere with the impugned order.

8. During the course of hearing of the OA, learned counsel appearing for the applicant submits that the place of transfer of the applicant is nearly

300 kms away from the present working place and it causes much inconvenience to him and therefore he desires to make a representation requesting to be posted at a nearer place. The applicant may submit an application to the Respondents and the Respondents are directed to consider and dispose of the same according to law at an early date.

9. With the above observations, the Original Application is dismissed.

No order as to costs.

(R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 17th July, 2018.
Dictated in Open Court.

vl