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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.441 of 2003

New Delhi, this the 18th day of July, 2003

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri Anmol Rattan Joshi,
S/o Shri M.G. Joshi,
R/o 31/7, Railway Colony,
Kishan Ganj, Delhi-110007.

....Applicant

(By Advocate : Shri K.K. Patel)

Versus

1. Union of India
Through - The General Manager,
Northern Railway,
Railway Head Quarter,
Baroda House, Kasturba Gandhi Marg,
New Delhi.
2. Division Railway Manager,
Northern Railway, (DRM Office)
Estate Entry Road,
New Delhi.
3. Sr. Divisional Commercial Manager,
DRM Office, New Delhi.
4. Divisional Personnel Officer,
D.R.M. Office,
New Delhi.

....Respondents

(By Advocate : Shri R. L. Dhawan)

ORDER (ORAL)

Heard Shri K.K. Patel and Shri R.L. Dhawan,
learned counsel for the applicant and learned counsel
for the respondents respectively.

2. The applicant (Anmol Rattan Joshi) is aggrieved by the transfer order dated 27.9.2002 issued on administrative grounds transferring him from Delhi to Bhoi. The applicant, who was working as Parcel Clerk at New Delhi Railway Station and staying in the Railway Quarter at Delhi, where his wife and aged mother are staying with him, had been issued a major

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penalty charge-sheet on 24.9.2002. Thereafter he stood transferred to Bhoi vide impugned transfer order. This has been done to prevent him from active pursuing his defence in the case against him. In fact, the order was illegal, malafide and contrary to the law settled by the Hon'ble Supreme Court and did not involve any administrative exigency. This transfer order is punitive and, therefore, liable to be set aside. Shri K.K. Patel, learned counsel for the applicant has prayed that Tribunal should intervene in the matter and restore his position at New Delhi.

3. Contesting the applicant's pleas, Shri R.L. Dhawan, learned counsel for the respondents points out that the applicant had not approached this Tribunal with clean hands. The individual concerned is involved in a corruption case and proceedings have been initiated against him. While keeping in mind the sensitivity of the charges and likelihood of the applicant's attempt to influence the witnesses, it was thought necessary by the Railways on grounds of administrative exigency to post the applicant at Bhoi. He also points out that in matters like this, the Tribunal would be well advised not to interfere.

4. I have carefully considered the matter and I am fully convinced that the applicant has no case. What he seeks is that he should be retained at Delhi during the pendency of the proceedings against him so

that he would not be put to avoidable inconvenience of making frequent travel from his station of posting to Delhi. On the other hand, the respondents want to keep him away so as to avoid the chances of his influencing the witnesses. The view adopted by the respondents and action taken by the respondents are correct and merit to be endorsed. Under normal circumstances, as has been settled by the Hon'ble Supreme Court in the case of Union of India Vs. S.L. Abbas (1993 (2) SLR 585) that unless the transfers are malafide and against the notified guide-lines, the Tribunals and Courts should be careful in intervening with those matters. The present case does not involve either any malafide or violation of the guide-lines. The transfer has been only ordered as a safety measure by the Government so as to ensure that the disciplinary proceedings will not suffer. There is no reason why such an action taken in the interest on administration should be interfered with. It may be true that the applicant would have been subjected to some personal difficulty by this transfer, but the circumstances being what they are he has to bear with them. After the end of the enquiry, the respondents can consider his case for transfer from Bhoi to Delhi in accordance with the rules, if found fit.

5. In the above view of the matter, OA fails and is accordingly dismissed. However, it is indicated that the respondents can consider the case of the

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applicant for transfer from Bhoi to Delhi after the
the said enquiry, being in progress, is over, in
accordance with the relevant rules and instructions.

No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

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