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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 1925/2003

This the 11th day of September, 2003

MEMBER SH. KULDIP SINGH, MEMBER (J)

B.S. Rawat

(By Advocate: Sh. G.D. Bhandari)

Versus

Union of India and others

(By Advocate: Sh. Rajinder Khatter)

ORDER ON INTERIM RELIEF

By Sh. Kuldip Singh, Member (J)

Applicant challenges the transfer order vide which he has been transferred from New Delhi Railway Station alongwith the post to the Ambala Division on administrative grounds in public interest. Applicant is working as a Head Booking Clerk and was posted at Delhi Main Railway Station. It is stated that on 29.1.2003 while the applicant was working at Delhi Main Railway Station two Vigilance Inspectors came there and checked the cash of the applicant, both Govt. cash as well as personal cash. No discrepancy was found in his personal cash, but there was a shortage of Rs.373/- out of the total of Rs.30,824/- for which the applicant had sold the tickets upto 20.30 hrs. There was no excess cash, nor there was any complaint of overcharging or indulging in malpractices of any kind.

2. It is further stated that in the process of selling the tickets and collecting the cash, on such occasions when there is a lot of rush, possibility of some passenger either leaving some amount because of lack of short currency note or making short payment in a hurry cannot be ruled out. The Railway

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Cash Register where the sale of tickets is accounted for, also contains two columns, one for shortage and the other for excess. In case of excess the same is remitted alongwith the Govt. cash and if there is any shortage, the Booking Clerk on duty is responsible and he has to deposit the same from his personal pocket. So it was a case of simple shortage of cash for which the applicant is accountable.

3. It is further stated that in cash handling there cannot be any fraudulent act of the employee and at best one can be termed as careless and irregular worker but cannot be said to have committed any misconduct attracting the provisions of either the Railway Servants (Discipline & Appeal) Rules or any punitive action by way of a transfer from one Division to another. However, applicant was transferred on 10.2.2003 from Delhi to New Delhi vide Annexure A-2 and applicant carried out the transfer orders but applicant was surprised to see impugned order dated 16.6.2003 whereby applicant was transferred with post to Ambala Division. The said order is stated to be bad in law because the applicant had joined the New Delhi only a month ago and that too on inter-divisional transfer basis.

4. It is further stated that impugned order has been issued in mid-school session and same would disturb the academic career of the applicant's children as it is violative of Railway Board's order dated 6.2.78. It is further stated that the order has not been passed by the competent authority as it is not within the competency of the DRM to transfer the post too from one Division to another, since the posts are sanctioned/created/abolished by the PHOD of the Railways. It

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is further stated that the fact of shortage of some cash does not make out a case of misconduct and inter-divisional transfer should not have been ordered.

5. Respondents had not filed any reply. I have heard the learned counsel for the parties on interim relief. Since it is pleaded that it was a case of only some cash found short out of the Govt. funds on account of sale of tickets by the applicant and there is no complaint of any malpractices on the part of the applicant, so I find that applicant has a prima facie case to challenge the transfer order which has been passed in violation of the instructions issued by the Railway Board itself about the interdivisional transfers.

6. Accordingly, I allow the interim relief and direct the respondents that operation of the impugned order shall remain stayed till the disposal of the OA. Respondents are directed to file the reply. List on 14.10.2003.

  
( KULDIP SINGH )  
Member ( J )

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