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Court : Central Administrative Tribunal CAT Delhi

Decided On : Oct-09-2006

Judge : M a V.K., M K Gupta

Appellant : Shri Pawan Kumar,

Respondent : Union of India (Uoi) (Through the

Advocate for Pet/Ap. : Shri. B.S. Mainee

Judgement :

1. Order dated 29.7.2004 transferring applicant from Delhi Division to Ambala Division along with post in public interest has been challenged in present OA.2. It has been contended that aforesaid order had been passed high-handedly by the General Manager (Commercial) (P) under the wrongful pressure of the Vigilance Department and further said order had been in violation of Railway Board circulars issued in 1967, in the year 1978 as well as dated 30.10.1998. Said order is punitive and stigmatic because only those persons are transferred on inter-divisional basis who are found to be corrupt. Since no enquiry has been held and no opportunity of hearing has been granted to applicant, it cannot be held that he is guilty of corruption. Railway Board circular dated 02.11.1998 conferred arbitrary, unfettered, unbridled and unlimited powers to the authority who strikes at the very root of the principle of natural justice.

3. Single Bench of this Tribunal while issuing notice on 17.8.2004 also granted order of status-quo, which remains in force till date.

Initially, matter was adjourned awaiting the outcome of Full Bench judgment of this Tribunal, which was decided on 07.1.2005. Later, matter was adjourned, as aforesaid Full Bench judgment had been challenged before the Honble Delhi High court vide Writ Petition (C) No. 6082/2005 [Ganesh Din v. Union of India and Ors.].

4. Respondents contested the claim laid by filing a detailed reply.

They had also relied upon order dated 15.3.2005 passed by Division Bench in OA No. 1405/2004 and series of matters including OA No.1670/2004 [Ganesh Din v. Union of India and Ors.] 6. During the course of hearing, Shri B.S. Mainee, learned Counsel for applicant fairly stated that the view taken by this Tribunal on 07.1.2005 as well as 15.3.2005 in aforesaid bunch of cases has been upheld by the Honble Delhi High Court judgment dated 15.9.2006 wherein challenge made to circular dated 02.11.1998 was rejected. It was further held therein that circulars dated 25.3.1967 and 30.10.1998, which prescribed a restrained on transfer pending disciplinary proceedings or departmental proceedings, are intended for general gazetted staff of Railways, while the circular of 02.11.1998 deals specifically with Railway staff posted in ticketing and areas of mass conduct.

7. Following aforesaid judgment, we have no hesitation to conclude that the challenge made to order dated 29.7.2004 cannot be accepted and OA, being devoid of merit, is dismissed. Interim order is vacated. No costs.

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