
(1981) 12 RAJ CK 0021
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1250 of 1981

Surjeet Singh

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 02-12-1981

Acts Referred:

Citation : (1981) WLN 332

Hon'ble Judges : D.P. Gupta, Acting C.J.

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.P. Gupta, Actg. C.J. 1. This writ petition has been filed against an order transferring the petitioner from Bikaner division to Lucknow Division of the Northern Railway. The order of transfer was passed by the Senior Personnel Officer, Northern Railway New Delhi on July 13, 1981 and was communicated to the petitioner by the Senior Divisional Personnel Officer, Northern Railway, Bikaner by his notice dated July 13, 1981.

2. The contention of the learned Counsel for the petitioner is that there was a divisional cadre of Travelling Ticket Examiners (hereinafter called "the T.T. Es.") and that transfer outside the division was not permissible. Reliance was placed on a decision of the Delhi High Court in Prem Parveen v. Union of India 1971 SLR 659. In that case, it was alleged that the Directorate of Extension and office of the Regional Station were two separate cadres and the respondents conceded in their return that they constituted two separate cadres. It was on the basis of the admission of the respondents that a learned Judge of Delhi High Court held that normally it is expected that the Government employees, who join a particular cadre, would have the range of their transferability determined within that cadre, A person who is recruited to a particular cadre, should not be compelled against his wishes to serve outside the cadre.

3. The case of Prem Parveen (supra) is distinguished in as much as in the

present case it cannot be held that the cadre of TTEs is a divisional cadre. The appointment of the petitioner was made on the basis of selection made by the Railway Selection Board for the post of TTE in the entire Northern Railway. After the selection was made, options were invited from the selected candidates and petitioner came to be posted in the Bikaner division on the basis of his option. The question as to whether the cadre of TTE's is division wide or the cadre is one in respect of a Railway was considered by Agarwal, J. in *Laxman Singh v: Union of India* S.B. Civil Writ Petition No. 103 of 1981, decided on June 30; 1981. In which case a similar matter of transfer of a TTE employed in the Western Railway came up for decision and the very same arguments which have been advanced before me by the learned Counsel for the petitioner that the cadre of TTE was division-wise was raised before the learned Judge. It was held in *Laxman Singh's* case (supra) that a division railway did not constitute a separate railway establishment and transfer of an employee from one division to another in the same railway was permissible under Rule 2011 of the Railway Establishment Code. I find myself in agreement with the reasons given by Agarwal, J. in *Laxman Singh's* case (supra). Since the petitioner has been transferred within the Northern Railways it cannot be said that he has been transferred from one railway establishment to another railway establishment.

4. Another contention which was raised by the learned Counsel for the petitioner was that the right of consideration for promotion of the petitioner would be affected on account of his transfer from Bikaner division to Lucknow division. It is not the case of the petitioner that there was at present any vacancy on a higher post or cadre, for which the petitioner was to be considered for promotion. In *State of Maharashtra and another Vs. Chandrakant Anant Kulkarni and others*, it has been observed by their Lordships of the Supreme Court that a right to be considered for promotion is a condition of service but mere chance of promotion is not. The petitioner has no immediate right of consideration for promotion but what he alleges is that when in future vacancy may arise, he would have a right to be considered for promotion. Thus in substance, what the petitioner has alleged is merely that his chances of promotion would be affected. Mere chance of promotion is not a condition of service and the fact that the chances of promotion were reduced on account of transfer did not amount to change of any condition of service.

5. It was also argued by learned Counsel for the petitioner that the seniority of the petitioner would be pre-judicially affected by his transfer to Lucknow division; This question was also considered in *Laxman Singh's* case (supra) and it was held that transfer from one division to another division in the same railway establishment could not be challenged merely on the ground that it would affect the seniority of the employee concerned or would affect his future chances of promotion. In *Mohan Lal Jain v. State of Rajasthan and, Ors.* 1980 SLR 626 another learned Judge of this Court held that where the power of transfer existed, the order of transfer could not be said to be invalid merely because the transfer was made from one Municipal Board to another.

6. Learned Counsel then contended that the transfer of the petitioner has been based on policy and has been made as a result of the directive issued by the Chairman of the Railway Board that the drive against ticketless, travelling should be stepped-up" and the staff detected or indulging in mal-practices should be sent on inter-divisional transfers. It is alleged by the the petitioner that the transfer was made on the basis of low earning. The order of transfer of the petitioner states that the transfer was made in the interest of administration. It is not the petitioner's case that any: notice was given to him or any charge-sheet was served upon him as is alleged to have been done, in some cases nor any proceedings have been taken- against the petitioner on account of low earning. The mere allegation that in the garb of transfer the petitioner was being punished is without any foundation." It may be observed that, transfer within the cadre from one to another is riot a punishment. If the administration is not satisfied with the performance of the employee at; a particular place, then certainly it would be in the interests of the administration to transfer such a person to another place may be within the same division pr outside so long as the transfer takes place on a post in the same cadre and: subject to the conditions of service of the employee concerned in order to get better performance. Such a transfer cannot be said to have been made malafide or by way of punishment. If the railway administration desires to step up the drive against ticketless travelling and even if some transfers are made in order to activate the aforesaid drive, it cannot be held that there was any malafide motive in making the transfer of the petitioner or like other persons. The contention of malafides was also raised in Laxman Singh's case in similar circumstances but was rejected.

7. The learned Counsel for the petitioner tried to make capital out of the fact that the petitioner was relieved immediately as soon as the transfer order was handed over to him. It is alleged that as in some cases writ petitions were admitted by this Court and stay orders, were issued, the petitioner was relieved immediately with the object that he may not be able to approach this Court and obtain stay order. The question of relieving the petitioner after the order of transfer was served upon him has no relevancy with the question of validity of the transfer order itself. It cannot be held that merely because the petitioner was relieved immediately the transfer order passed against him should be held to be malafide.

8. I am unable to find any infirmity in the order of transfer of the petitioner and when such an order is passed in the exigencies of administration, there is no reason for this Court to interfere with the order of transfer.

9. The writ petition has no substance and it is hereby dismissed.