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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1283/2011 & CM No.2711/2011

HAZRAT NIZAMUDDIN RAILWAY STATION COLLIES WELFARE
UNION Petitioner

Through: Mr. Krishan Mohan, Advocate.

versus

UOI AND ORS. Respondents

Through: Mr. Chandan Kumar, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
14.11.2011

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1. Transfer of 100 licensed porters from Old Delhi Railway Station to *Hazrat Nizamuddin* Railway Station, New Delhi, vide order of 06.01.2011, passed by Senior Divisional Commercial Manager of the Office of Divisional Rail Manager, New Delhi Railway Station, was challenged by way of this writ petition by *Hazrat Nizamuddin* Railway Station Coolies Welfare Union but this petition was entertained only on behalf of one such coolie – Sughan, who had signed in this petition as the petitioner- Union was not registered and thus, had no *locus standi* to file this petition.

2. Normally in matters of transfers, the Courts are quite reluctant to exercise the writ jurisdiction. However, in the instant case, the transfers made vide impugned order of 6.1.2011

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(Annexure P-7), are stated to be contrary to the Railway Board Policy (Annexure P-6) and as per learned counsel for the petitioner, the impugned order arbitrarily effecting the transfers has not followed the criteria, as laid down by the respondents themselves in the Communication of 26.8.2005 (Annexure P-10), which deserves notice and it reads as under:-

'Transfer will be done on following criteria:-

- 1. Seniority of the applicant*
- 2. No complaint against particular application for last five years in service record.*
- 3. Physical fitness.*
- 4. Transferred coolies will not transfer his badge for next five years to any coolie*

Transfer of badge will be made after death and any untoward accident or physically handicapped. This transfer is made on the basis of application.'

3. During the course of hearing learned counsel for the petitioner had drawn the attention of this Court to the Communication of 20.10.2010 (Annexure P-8) from Commercial Inspector of *Hazrat Nizamuddin* Railway Station to the Station Manager of the said Railway Station disclosing that there was no need of more coolies, as 102 Coolies had come back again from *Gang Man*. According to learned counsel for the petitioner, the impugned order has resulted in starvation of the transferred coolies and has created discord amongst the transferred coolies and the existing coolies at the *Hazrat Nizamuddin* Railway Station and despite Representations, the grievance of these transferred coolies have not been addressed and even the Representation of

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03.02.2011 (Annexure P-9) to the Railway Minister as well as to the respondents herein, has yielded no results.

4. When called upon to disclose as to which respondent is the competent authority who is to effectively decide the Representation (Annexure P-9), it was disclosed by learned counsel for the respondents that respondent No.4- Divisional Rail Manager has to do so.

5. Accordingly, this writ petition is disposed of, with direction to respondent No. 4 to decide Representation (Annexure P-9) in the light of the Railway Board Policy (Annexure P-6), as disclosed in response to the Right to Information sought and to follow the criteria as noted in Communication of 26.8.2005 (Annexure P-10) while taking note of its Communication of 20.10.2010 (Annexure P-8). The needful be done promptly or latest within 3 months from today, after hearing the representative of the petitioner.

6. Copy of this Order be sent to respondent No. 4 forthwith along with Annexures P-6 and P-8 to P-10 for compliance.

7. *Dasti.*

CM No.2711/2011 (u/S 151 CPC)

Dismissed as infructuous.


(SUNIL GAUR)
JUDGE

NOVEMBER 14, 2011

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