

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5125 of 2019

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RAJEEV RANJAN KUMAR SINGH S/o SRI SATYA NARAYAN
SINGH, CHIEF RESERVATION SUPERVISOR EAST CENTRAL RAILWAY
MUZAFFARPUR, P.O AND P.S -MUZAFFARPUR, DISTRICT
MUZAFFARPUR, PIN CODE-842001 BIHAR

... .. Petitioner/s

Versus

1. THE UNION OF INDIA AND ORS THROUGH THE CHAIRMAN
RAILWAY BOARD RAIL BHAWAN MINISTRY OF RAIL
GOVERNMENT OF INDIA, NEW DELHI-110001
2. THE GENERAL MANAGER EAST CENTRAL RAILWAY HAJIPUR, P.O
DIGGHI KALAN, P.S HAJIPUR SADAR, DISTRICT VAISHALI, PIN
CODE-844101
3. THE GENERAL MANAGER (PERSONNEL), EAST CENTRAL
RAILWAY HAJIPUR, P.O DIGGHI KALAN, P.S HAJIPUR
SADAR, DISTRICT VAISHALI, PIN CODE 844101
4. THE PRINCIPAL CHIEF COMMERCIAL MANAGER, EAST CENTRAL
RAILWAY, HAJIPUR P.O DIGGHI KALAN, P.S-HAJIPUR (SADAR),
DISTRICT-VAISHALI, PIN CODE-844101 (BIHAR)
5. THE GENERAL MANAGER (VIGILANCE) EAST CENTRAL
RAILWAY, HAJIPUR, P.O.-DIGGHI KALAN, P.S.-HAJIPUR (SADAR),
DISTRICT-VAISHALI, PIN CODE -844101 (BIHAR)
6. THE DIVISIONAL RAILWAY MANAGER EAST CENTRAL RAILWAY,
SONEPUR, P.O.-SONEPUR, P.S.-SONEPUR, DISTRICT-SARAN AT
CHAPRA, PIN CODE-841101 (BIHAR)
7. THE SENIOR DIVISIONAL COMMERCIAL MANAGER EAST
CENTRAL RAILWAY, SONEPUR, P.O.-SONEPUR, P.S.-SONEPUR,
DISTRICT-SARAN AT CHAPRA, PIN CODE -841101 (BIHAR)
8. THE SENIOR DIVISIONAL PERSONNEL OFFICER EAST CENTRAL
RAILWAY, SONEPUR, P.O.-SONEPUR, P.S.-SONEPUR, DISTRICT-
SARAN AT CHAPRA, PIN CODE-841101 (BIHAR)
9. THE SENIOR DIVISIONAL FINANCIAL MANAGER EAST CENTRAL
RAILWAY, SONEPUR, P.O.-SONEPUR, P.S.-SONEPUR, DISTRICT-
SARAN AT CHAPRA, PIN CODE-841101 (BIHAR)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Munna Pd Dixit (M.P. Dixit), Adv. Mr. S.K. Dixit, Adv. Mr. Sanjay Kumar Chaubey, Adv. Mr. Shailendra Kumar, Adv. Mrs. Swastika, Adv.
For the Respondent/s	:	Mr. P.K. Verma, Adv. Mr. Anil Kumar Sinha, Adv. Mr. Anand Kumar, Adv.



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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-03-2019

Heard Shri Dixit, Learned counsel for the petitioner, and
Shri P.K. Verma, learned counsel for the respondent Railways.

The challenge raised is to the judgement and order of the
Central Administrative Tribunal dated 21st January, 2019 whereby
the original application filed by the petitioner has been dismissed.
The petitioner had challenged his order of transfer from East
Central Railway, Muzaffarpur to the North Frontier Railway,
Maligaon on the ground that, firstly, there was no power available
to transfer a Group-C employee, which the petitioner is, from one
Division to another except in any administrative exigency.

In the instant case, even though the impugned order does
mention administrative exigency, but the background of the
transfer is on account of a penal action which the respondent
Railways have proposed to be taken relating to a vigilance raid
alleging that the petitioner had indulged in laundering 'Tatkal'
tickets for his benefit.

Learned counsel submits therefore that this was not a
transfer in any administrative exigency and, if the Railways were



proceeding with any action against the petitioner, then resort to transfer could not have been taken keeping in view the Rules applicable in relation to proceedings taken on a complaint. It is further submitted that there was no material before the Tribunal so as to substantiate the stand taken by the respondent Railways in relation to the vigilance raid and, to the contrary, the petitioner has brought on record that the vigilance Memo. itself reflected that the transaction that was being carried out at the window of the petitioner did not suffer from any infirmity nor any loss caused to the Railways was detected. Learned counsel submits that it was on account of the mala fides of some of the officers that the petitioner has been harassed and he, being a Group C employee, has been transferred from one Zone to another. In this regard, reliance is also placed on the provisions of Clauses 226 and 227 of the Indian Railway Establishment Code to contend that the transfer order passed by the Railway Board on the basis of some communication is unlawful and without even putting the petitioner to notice about the communication on the basis of which such a transfer order has been made.

Learned counsel has also relied on a Division Bench judgement of this Court dated 20th June, 2017 in C.W.J.C. No. 12706 of 2016. Shri Dixit has also invited the attention of the



Court to the Supreme Court decision in the Ramadhar Pandey Vs. State of U.P. & Ors. 1993 Supp. (3) SCC 35 to contend that the exercise of power has to be by the competent authority and, therefore, the Railway Board having proceeded to pass the transfer order at the behest of a communication is unauthorized.

Responding to the aforesaid submissions, Shri Verma has invited the attention of the Court to the various paragraphs of the impugned order of the Tribunal to urge that, as a matter of fact, the petitioner had been indulging in malpractices which was found to be prevalent as on the date when the Vigilance Team proceeded to conduct the raid at the window of the petitioner and found material that was sufficient to take action against him. It was in the interest of Railways to transfer him immediately and for which appropriate action was taken after having assessed the need for transferring the petitioner. The submission, therefore, is that the action taken is not without authority and the Railway Board is the authority empowered on behalf of the President to pass such orders in an administrative exigency. He submits that this power is also exercisable in the case of Group C employees keeping in view the provisions of Clause 226 of the Establishment Code which has been dealt with by the Tribunal in the impugned order.



We have considered the submissions raised and we find that the transfer order was passed by the Railway Board on 20th August, 2018 on the strength of communication dated 17th July, 2018 dispatched by the East Central Railway. It is correct that the said communication has not been provided to the petitioner but, at the same time, the affidavits which were filed before the Tribunal and that have been discussed by the Tribunal in its order indicates the performance of the petitioner wherein action has been proposed to be taken against him on account of certain malpractices.

At this stage, it would be apt to refer to paragraph Nos.11 and 12 of the impugned judgement which records that a decoy requisition slip which had been filled up by the Vigilance Department resulted in the issuance of a Tatkal Ticket from the window of the petitioner and during the raid the same was recovered from him which matched with the said requisition slip.

A prosecution-case has also been filed and the matter was reported to the higher authorities.

The defense taken by Shri Dixit is that when the Vigilance probe was carried out, a Memo. was prepared and which clearly reflects that whatever was the realized amount disclosed by the petitioner was found to be intact, without there being any



deficiency in the collection made by the petitioner that may even remotely reflect pilferage of the government money. He, therefore, submits that in the absence of any such material to support the raid by the Vigilance, the question of the petitioner having indulged in any malpractice does not arise.

We are unable to agree with the aforesaid submission of Shri Dixit for the reason that the allegation is about having arrived at the aforesaid conclusion on the basis of a decoy requisition slip having been tendered by the Vigilance Department and a corresponding ticket having been recovered from the petitioner. In this view of the matter, at this stage, we are satisfied that there was sufficient material on the basis whereof the action taken by the Railways cannot be faulted with as being mala fide or against public interest.

Apart from this, the decision has been taken by the highest body of the Railways, namely, the Railway Board. This has been done on the basis of the communication and the order has been passed on 20th August 2018. It is correct that a charge-sheet was served on the petitioner in the Vigilance Case. Thereafter the transfer order has been passed by the Board, but the same has been done on the basis of an earlier communication dated 17th July,



2018. In this view of the matter, we are unable to gather any mala fides so as to interfere with the impugned orders, at this stage.

The argument about the transfer being not in accordance with the Rules, does not appear to be correct nor we are satisfied with the grounds of mala fides taken by the petitioner.

Consequently, for all the reasons hereinabove, there is no merit in this petition which is accordingly dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

AFR/NAFR	NAFR
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