

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No. 345/02
TA No.

26-4-02 Date of Decision

Sh. Lalit Dugga

...Petitioner (s)

Sh. B.B. Rawat

...Advocate for Petitioner (s)

V E R S U S

UOI & others.

...Respondents

Shri R.V. Singh Bawa for ...Advocate for respondents
Shri R.V. Singh.

Coram :-

Hon'ble Shri Govindan S. Tampi, Member (A)

1. To be referred to the Reporter or not ? YES
2. Whether it needs to be circulated to other Benches of the Tribunal ? NO

(GOVINDAN S. TAMPI)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 345/2002

New Delhi, this the 26th day of April, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

Lalit Dogra
S/o Shri S.K.Dogra
R/o Suite No.24-25
Western Court Hostel
Janpath, New Delhi - 110 001.

Employed as

Chief Superintendent of Govt. Hostels
Directorate of Estates
Western Court Hostel
Janpath, New Delhi - 110 001.

...Applicant

(By Advocate Shri B.B.Raval)

V E R S U S

UNION OF INDIA : THROUGH

1. The Secretary
Ministry of Urban Affairs and Poverty
Alleviation
Govt. of India
Nirman Bhawan, New Delhi - 110 011.
2. The Director of Estates
Directorate of Estates
Nirman Bhawan, New Delhi - 110 011.
3. The Deputy Director of Estates (Estt.)
Directorate of Estates
Nirman Bhawan, New Delhi - 110 011.

...Respondents

(By Advocate Shri R.V.Sinha through
Shri R.N.Singh)

O R D E R

By Hon'ble Shri Govindan S.Tampi,

Challenge in this OA is directed against
Office Order No.A-12011/1/88-Admn 'B' dated
14-12-2001, transferring the applicant from Western
Court Hostel to Hostel Section, Nirman Bhawan, New
Delhi, with additional duty to oversee Curzon Road
Hostel as well as Memorandum of the same number dated
6-2-2002, rejecting his representations dated

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28-2-2002 and 31-1-2002 with directions to hand over charge to Shri Krishan Dutt, Supdt., Curzon Road Hostel immediately.

2. Heard Shri B.B.Raval, Id. counsel for the applicant and Shri R.N.Singh, Id. proxy counsel for the respondents and perused the documents brought on record, including the relevant file produced by the respondents.

3. The applicant, a Graduate from Delhi University, possessing Diploma in Hotel Management as well as a Diploma in Business Management and experience in Hotel Management, both in Private and Public Sector, responded to the advertisement No.41, which appeared in Indian Express dated 10-10-87 for the post of Chief Supdt. of Govt. Hostels New Delhi, under the Directorate of Estates, in the scale of pay of Rs. 1640-2900/-. On being selected by the UPSC, he was offered the above appointment on 16-3-88. On 29-4-88, he was appointed to the post of Chief Supdt. of Govt. Hostels in the pay scale of Rs.1600-2660/-. On a probation of two years, By the same order one Shri Narula was working as Chief Supdt. was reverted to the post of Assistant. This was the first time that the post of Chief Supdt. was filled by direct recruitment through UPSC and the applicant was fully qualified for the above selection. Charter of duties dated 8-6-89, issued to the applicant, explained in great details the responsibilities of the post of Chief Supdt., which were much higher than what was expected of an Assistant. On his bringing to the notice of the Ministry the anomaly in the pay scale,

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he was advised that the same was being taken up separately. On 1-10-2001, according to the applicant, a lady of questionable background visited the premises, where the applicant was working and created mischief for not being given accommodation of her choice. She also started making allegations against the applicant and other members of the staff, on account of which, the applicant had to obtain anticipatory bail as a matter of abundant caution. The Criminal Writ Petition No.1244/2001, filed by her against the Police, for not taking action against the staff has been dismissed by the Delhi High Court on 5-11-2001. As a sequel to the above, on 12-2-2001, the applicant was transferred from Western Court Hostel to Hostel Section, Nirman Bhawan with additional duty to look after Curzon Road Hostel. The applicant filed representation against the transfer on 18-12-2001 to the Secretary, Addl. Secretary, Director of Estates, Members of the Parliament. The orders ^{of transfer} were sought to be served on the applicant on 14-12-2001, but ^{it} did not succeed. On 29-1-2002, he filed another representation to many authorities. No reply was received thereon. Shri Krishan Dutt, Supdt. reached Western Court Hostel on 29-1-2002 with the alleged joining report, but the same was not accepted by the applicant stating that he was awaiting for disposal of his representation. Without disposing of the same, on 6-2-2002, Deputy Director, Directorate of Estates, instructed the applicant to hand over charge to Shri Krishan Dutt within three days. According to the applicant, the transfer had been effected to accommodate the lady of

dubious credentials, referred above and to bring disgrace to the applicant and his staff. Hence this
OA.

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4. Grounds raised by the applicant are that :-

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(a) applicant being the only qualified Chief Supdt., his transfer was affecting the functioning of the VVIP, Western Court Hostel, Janpath ;

(b) the post of Chief Supdt. of Govt. Hostels was the only and single post ;

(c) the above transfer would render Curzon Road Hostel with no immediate Supervisor ;

(d) even as Chief Supdt., Western Court Hostel, he was already incharge of Curzon Road Hostel, which he has to do by remote control from Nirman Bhawan.

(e) as the above lady of dubious distinction was moving about in Curzon Road Hostel, it would be reduced to the level of a private guest house of easy virtue and

(f) his representation has been rejected without any examination of the issues and in a post arbitrary manner ;

5. In the reply on behalf of the respondents, it is pointed out that the applicant at the time of his appointment was clearly intimated that he was

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liable to be posted anywhere in India and it was nowhere mentioned that he was selected only in the post of Chief Supdt., Govt. Hostel to be posted at Western Court Hostel, as alleged. The transfer effected from Janpath to Nirman Bhawan, was not giving rise to any hardship or inconvenience to the applicant. While the Chief Supdt. is in over all charge the Govt. Hostels at Western Court, Pataudi House (now dis-functional) working girls Hostel and Curzon Road Hostel, the job can be performed comfortably from Directorate of Estates, Nirman Bhawan and there is no specific requirement that he has to be based at Western Court Hostel itself. The applicant was given the accommodation in the Western Court Hostel only to facilitate the work and on a concession by the respondents and once he is not expected to function from the same building, his accommodation need not be continued. Even otherwise, providing accommodation in Western Court, did not take away the right of the competent authority to shift him to any other place, which the said authority found suitable. Director of Estates, as Head of the Organisation could correctly exercise his prerogative to appoint any of the junior staff, in a place where his service could be better utilised and the same is not liable to be questioned in the Tribunal. So long as, the transfer has been effected within the guidelines and without any malafides, the same cannot be questioned, as shown by a host of decision, as shown below :-

(a) Mrs. Silpi Bose & Ors. Vs. State of Bihar
(AIR 1991 SC 532)

(b) Gujarat Electricity Board & Ors. Vs.
Atma Ram (1998 10 ATL 396).

(c) N.K.Singh Vs. UOI (1994 (6) SCC 98)

(d) State Bank of India Vs. Anjan Sanyal
(2001 (3) SLJ SC 270)

In view of the above, the DA deserves to be dismissed,
plead the respondents.

6. In the rejoinder, the applicant states that
as he was selected to the lone and single post of
Chief Supdt. of Hostels and placed in Western Court
Hostel, ^{he} could not have been shifted from there.
He was not challenging the transfer on account of any
personal inconvenience, but to vindicate his honour
against this unreasonable and illegal transfer, which
had been ordered to benefit certain miscreants, having
influence at higher places. The respondents' plea
that the Chief Supdt. does not have to sit in the
Western Court, is only to ensure that the said place
becomes a viceden. Once the transfer order has been
found to be malafide and arbitrary and vitiated, the
same had to be set aside, in the interest of
administration.

7. During the oral submissions, S/Shri Rawal
and R.N.Singh, forcefully reiterated their respective
written pleadings. While Shri Raval harped on his
theme that the post of Chief Supdt. of Hostels was
only meant for Western Court Hostel and by shifting
him from the said place, the respondents have acted

against the interest of the Administration and general public and handed over the management of the prestigious hostel to someone who was inexperienced and not qualified, Shri R.N.Singh pointed out that the applicant had not made out any successful case to show that he was selected specifically for manning the Western Court Hostel, so as to justify his claim for any being continued in . . . *What post?*

8. I have carefully considered the rival contentions and perused the relevant file of the Directorate of Estates in this connection. As settled time and again by the Hon'ble Apex Court in a number of decisions, including the cases of Mrs. Silpi Bose Gujarat Electricity Board and N.K.Singh Vs. UOI (Supra), transfer is not a matter of right but is a condition of service and the Management/Administration has the prerogative to determine as to where and how, the services of any of its employee is put to the best use to the Organisation. The Management/Administration is the best judge in the matter and the Tribunal should not tread on this turf, unless and until, it is proved that transfer has been against the accepted and notified guidelines and malafide. The transferee also has to prove that he had a legitimate claim to a particular post in the place. Seen against this scenario, the applicant has no case at all. None of the documents - the advertisement No. 41 wherein, among others the post of Chief Supdt. of Govt. Hostels is indicated, UPSC's letter No.F.1/219/86/R-VI/Roll No.21 dated 7-3-88, intimating the applicant that he has been recommended for the post of Chief Sudpt. of Govt.

Hostels, to the Directorate of Estate, New Delhi, the offer of appointment No.A-20011/1/88-Adm-B. Letter from the Directorate of Estates of the same Number dated 23-3-88 to the Medical Supdt., RML Hospital, advising the medical examination of the applicant and Office Order No.71/Admn-B dated 29-4-88 - speaks that the applicant has been selected for the post of Chief Supdt. of Hostels, Western Court Hostel. All of them refer to the post as falling under the jurisdiction of Directorate of Estates. It is only thereafter, he has been asked to perform ^{his duties} from Western Court Hostel. The Certificate containing the Charter of Duties of the Chief Supdt. also does not state that CSGH would have perforce to function from Western Court Hostel. That being the case, the applicant's case that he was exclusively selected for being posted to Western Court Hostel has no legs to stand on. Infact as the CSGH was expected to look after four Hostels, all under Directorate of Estates (two of which have become non-functional), it definitely was in the fitness of things that he performed his duties from the Headquarters of the Directorate of Estates at Nirman Bhawan. What the respondents have presently done by the impugned orders is just that. The same cannot in any way be assailed or called in question. The applicant has somehow assumed that the transfer was a malafide move, motivated by some complaints and has, therefore, sought to cast aspersions on all those who, in his opinion were, responsible for the transfer. The perusal of the ^{relevant} file does not at all bear out this allegation. The transfer was based on administrative decision, which has been taken at the competent level, after considering the administrative

interest and has not been caused by any undue influence brought to bear upon the authorities by any mischievous elements, as alleged by the applicant and pressed very strongly by his counsel during the oral submissions. That being the case, for the Tribunal to interfere in this action, which is governed only by administrative interest and not at all characterized by any malafide would be improper and coming in the way of proper exercise of administrative functions by competent authority. Allowing this application will be only pampering to the ego of the individual, which is not the Tribunal's responsibility. This totally mis-conceived and mis-guided application cannot at all be endorsed either on facts or in law.

9. In the above view of the matter, the application which is totally devoid of any merit fails and is, therefore, dismissed. The interim relief granted on 8-2-2002, stands automatically vacated. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

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