

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

**O.A. No. 616/2019
M.A.No.1076/2019
and
O.A. No. 617/2019
M.A.No.1075/2019**

Reserved on: 02.03.2020
Pronounced on:11.03.2020

**Hon'ble Mr. Suresh Kumar Monga, Member (J)
Hon'ble Mr. A. Mukhopadhaya, Member (A)**

O.A. No. 616/2019

Jagjeet Singh Son of Late Shri Sunder Singh, aged about 56 years, resident of C-1033, Panchsheel, C-Block, Ajmer-305004 and presently working as Multi Tasking Staff (MTS) in Archaeological Department, Ajmer Sub Division, Aana Sagar, Baradari, Ajmer-305004.

...Applicant.

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India, through Secretary to the Government of India, Archaeological Survey of India, Ministry of Culture, Archaeological Department, New Delhi-110001.
2. Director General, Archaeological Survey of India, National Museum, New Delhi-110001.
3. Superintending Archaeologist, Archaeological Survey of India, Jodhpur Circle, Arid Forest Research Campus, Krishi Upaj Mandi, New Pali Road, Jodhpur-342005.

(2)

4. Assistant Conservator of Archaeological Survey of India, Archaeological Department, Ajmer Sub Division, Aana Sagar, Baradari, Ajmer-305004.

...Respondents.

(By Advocate: Shri Anand Sharma)

O.A. No. 617/2019

Jagdish Prasad Mahawar Son of Shri Kanhiya Lal Mahawar, aged about 51 years, resident of 2601, Pipal Ka Kua, Ward No.43, Ajmer-305007 and presently working as Multi Tasking Staff (MTS) in Archaeological Department, Ajmer Sub Division, Aana Sagar, Baradari, Ajmer-305004.

...Applicant.

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India, through Secretary to the Government of India, Archaeological Survey of India, Ministry of Culture, Archaeological Department, New Delhi-110001.
2. Director General, Archaeological Survey of India, National Museum, New Delhi-110001.
3. Superintending Archaeologist, Archaeological Survey of India, Jodhpur Circle, Arid Forest Research Campus, Krishi Upaj Mandi, New Delhi Road, Jodhpur-342005.
4. Assistant Conservator of Archaeological Survey of India, Archaeological Department, Ajmer Sub Division, Aana Sagar, Baradari, Ajmer-305004.

...Respondents.

(By Advocate: Shri Anand Sharma)

(3)

ORDER

Per: A.Mukhopadhyaya, Member (A):

With the assent of learned counsels for the parties, both these Original Applications, (OAs), are being disposed of by a single order as the issues involved and respondents in both these OAs are essentially the same.

2. These OAs arise from the transfer order dated 02.09.2019, (Annexure A/2 in both cases), vide which the applicants have been transferred from the Ajmer Sub Division to Kalyanpur and Arthuna respectively in Udaipur Sub-Division of the respondent organisation; (Sl.Nos.5 and 4 at Annexure A/2 respectively). Aggrieved by these transfers, the applicants approached this Tribunal seeking cancellation of their transfer orders as well as release of pay and allowances which had allegedly not been allowed to them since on account of the said transfer. They also sought a direction to continue them on the posts held by them prior to the passing of their transfer orders dated 02.09.2019, (Annexure A/2), with all consequential benefits. In the present set of OAs, the applicants state that consequent to their approaching this Tribunal earlier in this regard vide OA Nos. 534/2019 and 533/2019 respectively, orders were passed by this Tribunal on 11.09.2019 to consider their representations against their

(4)

transfers, (order dated 02.09.2019 – Annexure A/2), and maintain status quo till the disposal of the same by way of a reasoned and speaking order. They contend that the respondents violated the status quo condition in the Tribunal's order and that this violation is the subject of separate contempt petitions which are being pursued in this regard. Now, in view of subsequent developments, the present OAs have been preferred seeking cancellation of their earlier transfer order of 02.09.2019, (Annexure A/2), their relieving order of 16.09.2019, (Annexure A/11), as well as the rejection of their representations against their transfers, (Annexure A/1), in both the cases.

3. The applicants contend that they are serving as MTS in the respondent organisation and that while the existing convention/practice of the respondents is to transfer employees at their level, (Group-D/ MTS), within the same Sub-Division, (i.e. Ajmer in these cases), they have been singled out and posted to a distant place in another Sub-Division, (Udaipur Sub-Division), for no valid reason although vacant posts are available within Ajmer Sub-Division itself to which they could have been transferred had this been a genuine operational requirement. The applicants contend that in their representations against their transfer, they brought their family circumstances to

(5)

the notice of the respondents but that the respondents did not consider the same and arbitrarily rejected their representations vide their orders dated 04.10.2019; (Annexure A/1 in both cases). Aggrieved by this, they have now approached this Tribunal seeking quashing of their transfer orders dated 02.09.2019, (Annexure A/2), their relieving orders dated 16.09.2019 consequent upon their transfer, (Annexure A/11), and the rejection of their representations against the transfer vide respondents' orders dated 04.10.2019; (Annexure A/1). They have further sought the release of pay and allowances which, they claim, have not been allowed due to the 02.09.2019 transfer order and a direction to the respondents to allow them to continue to serve on the posts which were held by them before the passing of the transfer order dated 02.09.2019, (Annexure A/2), with all consequential benefits.

4. In reply, the respondents aver that the applicants were transferred in public interest vide order dated 02.09.2019, (Annexure A/2 in both cases), and had been relieved pursuant to this vide order dated 16.09.2019, (Annexure A/11), before receiving the order dated 11.09.2019 passed by this Tribunal in OA Nos.534/2019 and 533/2019 respectively. They aver that in compliance

(6)

with the order of this Tribunal, the representations of the applicants against their transfer were duly considered by the transfer committee but the committee did not find any merit in their representations and found that they had been serving for a long period of 12 and 30 years respectively in the Sub-Division of Ajmer and further that their services at their new place of posting, (Kalyanpur and Arthuna respectively in Udaipur Sub-Division), were **“very necessary”**.

5. Learned counsels for the applicants and the respondents were heard and the material available on record was perused. While reiterating the arguments made in the OAs, learned counsel for the applicants argued that the respondents had not applied their mind to the various family problems and circumstances that had been pleaded by the applicants and that therefore these transfers to another Sub-Division with the new places of posting being around 500 KMs away from the present place of posting were arbitrary and unreasonable acts on the part of the respondents. He contended that while the respondents do not have any specific transfer policy for employees such as the applicants, their transfers are against the conventional practice that has been followed by the respondents for many years in which employees at their level are retained

(7)

within the Sub-Division and no transfers are made to distant places outside the Sub-Division.

6. Per contra, learned counsel for the respondents argued that in a catena of cases, the High Courts, e.g. the Rajasthan High Court in **Bhagwan Das Mittal vs. State of Rajasthan and Ors.** RLW 2007 (3) Raj 1713, and the Apex Court in the case of **Mrs. Shilpi Bose and Others vs. State of Bihar and Others**, AIR 1991 SC 532, have established the general principle that a Government servant holding a transferable post has no vested right to remain posted at one place or the other and that the employee does not have any legal right to be posted forever to one particular place; rather he is liable to be transferred from one place to another where such transfers are part of his conditions of service. It has further been ruled that unless the order of transfer is shown to be an outcome of malafide or is in violation of statutory provisions prohibiting such transfer, courts and tribunals should not interfere with such orders as a matter of routine. Learned counsel for the respondents argued that in the present case, it is clear from the impugned orders of the respondents at Annexure A/1, (in both cases), that the representations of the applicants against their transfer were duly considered but that looking to their long

(8)

period of stay at their place of posting in Ajmer Sub-Division as well as the administrative requirements at the new place of posting, these transfers were considered to be necessary in the public interest as well as efficiency of administration. He argued that since no malafide has specifically been pleaded, leave alone substantiated by way of evidence in these cases, the impugned transfer order is not such as would justify any intervention from this Tribunal in the light of the guidelines laid down in this regard by the Hon'ble Apex Court and the various High Courts including the Hon'ble High Court of Rajasthan.

7. On consideration of the arguments preferred by the learned counsels for the applicants and the respondents as well as perusal of the record, we find substance in the contention of the respondents that there is nothing in these transfers to suggest any kind of malafide or indeed any violation of statutory rules. Given these facts and circumstances, we find no reason to intervene in these matters in the light of the clear rulings of the Hon'ble Apex Court and the various High Courts as referred to earlier.

8. In sum, we find no merit or substance in these OAs which would justify the Tribunal's intervention in these

(9)

cases. Accordingly, the OAs are dismissed for want of merit or substance.

9. There shall be no order on costs.

10. Since both OAs have been dismissed, therefore nothing survives in MA No.1076/2019 and MA No.1075/2019 and the same stand disposed of accordingly.

(A.Mukhopadhaya)
Member (A)

(Suresh Kumar Monga)
Member (J)

/kdr/