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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-357/99

New Delhi this the 24th day of May, 1999.

Hon'ble Shri S.P. Biswas, Member(A)

Shri S.P. Arora,
H.No.6712/A Nabi Karim,
New Delhi-55. Applicant

(through Shri N.H. Zuberi, advocate)

versus

1. The Commissioner of Sales Tax,
Office of the Commissioner of Sales
Tax, Govt. of NCT Delhi,
Bikrikar Bhawan, I.P. Estate,
New Delhi-2.
2. The Sales Tax Officer,
Ward 106, Sales Tax Deptt.,
Bikrikar Bhawan,
Delhi. Respondents

(through Sh. S.K. Gupta, advocate)

ORDER(ORAL)

The applicant, an Inspector under the respondents is aggrieved by the A-1 order dated 16.11.98 by which he stands transferred to Services-II Department under the Chief Secretary/Govt. of NCT Delhi.

2. The applicant seeks to challenge the aforesaid order on the following grounds:-

(i) that the order does not mention any where of there being any public interest involved in it.

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(ii) that the order is punitive in nature since the same is an outcome of a domestic enquiry ordered by the appropriate authority of Sales Tax department regarding some lapses in respect of the survey work conducted by him.

(iii) that he is the only official who has been discriminated by being relieved to take over the new job out of 29 officials transferred by Annexure A-4 order.

3. The learned counsel for the applicant in support of this claim cited the decision of the Tribunal in the case of Hem Chand Vs. U.O.I. (ATJ 1996(2) Page 96). That was the case, supported by a group of other case laws of both Tribunal and the Apex Court, wherein it was held that any order of transfer which is essentially punitive in nature needs to be intradicted. The learned counsel for the applicant argued strenuously to say that in the instant case though an enquiry has been held by an appropriate authority against two Inspectors regarding unsatisfactory working but they were not given any opportunity to defend themselves. The order of transfer, as at Annexure A-1, pursuant to such an enquiry should have been preceded by an opportunity of hearing to the applicant.

4. We have seen the records. By no stretch of imagination the order could be held as punitive in nature. The applicant admittedly holds a transferable

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job and has been transferred simply on account of unsatisfactory working by the competent authority. There is no stigma attached with it.

5. The law that would govern the issues of transfer are well settled by a long chain of decisions of Apex Court, namely, UOI Vs. S.L. Abbas (AIR 1993 SC 2444); N.K. Singh Vs. UOI (JT 1994(5) SC 296) & Shilpi Bose Vs. Govt. of India (AIR 1991 SC 532). In all these cases, the criteria/laws enunciated by the Hon'ble Supreme Court for the purpose of interference in transfer matters indicate that an official, having transfer liability can legally question an order of transfer when it is vitiated by mala fides, arbitrary and colourable exercise of powers and the order being against statutory provisions. The learned counsel for the applicant could not bring out that there has been any violation of the law laid down by the Apex Court as aforementioned in transferring the applicant.

6. The applicant has not come out with any material which could warrant our interference in the matter. In the result, the O.A. is dismissed being devoid of any merit. No costs.


(S.P. Biswas)
Member(A)

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