

Central Administrative Tribunal, Principal Bench

Original Application No. 666 of 1999

New Delhi, this the 10th day of September, 1999

Hon'ble Mr.N.Sahu, Member (Admnv)

1. Shri V.R.Sareen  
S/o Shri V.P.M.Sareen,  
R/o 19/22-B,Tilak Nagar,  
New Delhi-110018
2. Mrs.Ranju Madhra,  
W/o Shri Brij Bhushan  
R/o Sector 5/1017,  
R.K.Puram,New Delhi-110022.
3. Shri Vijay Pal Singh  
S/o Shri D.S.Rawat  
R/o D-358,Street No.13,  
Laxmi Nagar,Delhi.
4. Mrs.Vimla Sah,  
W/o Shri Deepak Sah,  
R/o Sector 4/1200  
R.K.Puram,New Delhi-110022
5. Mrs.Kamla  
W/o Shri Rakesh Kumar,  
R/o F-236, Moti Bagh-I,  
New Delhi-110021
6. Mrs.Sunita Bhatia  
W/o Shri Mahesh Bhatia  
R/o CC-4A,  
Hari Nagar,New Delhi-110018.

.....Applicants

(By Advocate: Shri B.B.Rawal)

versus

1. The Union of India  
through Cabinet Secretary  
Rashtrapati Bhavan,  
New Delhi.
2. The Director General of (Security),  
Cabinet Secretariat,  
Room No.7,Bikaner House  
New Delhi
3. The Joint Director(P&C)  
Office of Director General of (Security)  
East Block V,R.K.Puram  
New Delhi-110022
4. The Director,SSB  
East Block V,R.K.Puram  
New Delhi-110022

5. The Additional Secretary &  
Financial Adviser(EA)  
Cabinet Secretariat, Room No.7  
Bikaner House,  
New Delhi

.... Respondents

(By Advocate: Shri V.S.R.Krishna)

**O R D E R**

By Hon'ble Mr.N.Sahu, Member(Admnv)

Six applicants have joined together to impugn the transfer orders dated 4.8.98 and 27.8.98 issued by respondents 3 and 4 transferring the applicants out of Delhi. The reasons for impugning these orders are that the applicants have been continuously working as Stenographer Grade-III right from the date of their initial appointment and the action of the respondents in transferring them without promotion is stated to be arbitrary and unjust. The applicants referred to the genuine difficulties and hardships to small children of tender age and to medical ailments of their parents and in-laws as grounds for cancelling the orders of transfer. They referred to the fact that they are low paid employees and the orders would force them to maintain double establishments besides disrupting their family life. This would also entail them separation from their spouses.

2. After notice, the respondents filed the counter. They stated that in the SSB Directorate, there are only eight sanctioned posts of stenographers besides nine posts of Private Secretaries and twenty-one posts of Personal Assistants. Thirteen additional posts of stenographers were transferred to

(X) -3-

A the SSB Directorate from the field units from time to time. The competent authority was of the view that the workload did not justify the continuance of these posts. It may look amusing but it was mentioned in the counter that the stenographers had become less proficient because of lack of practice implying thereby that they sat idle in the office. In this background, it is stated that there was acute shortage of stenographers in the field. As against the sanctioned strength of 221 stenographers, only 129 were in position leaving 92 vacancies. In response to the clamour of the field units, 13 posts earlier transferred from the field units to the SSB Directorate were restored to the field. It is next submitted that the stenographers have been working for a very long time, some of them for more than two decades. Thus the transferred officials have completed their tenure in the field units and they were transferred complying with the parameters laid down in the transfer policy.

3. In the counter, the allegations made relating to the posting of individual stenographers have been explained, particularly para 1 of the counter at page 2 explains the position of Shri V.R.Sareen. With regard to promotion, it was explained that as per Recruitment Rules, 25% posts of Personal Assistant are earmarked for promotion of Stenographers Grade III with three years service, 50% posts by Limited Departmental Competitive Examination (in short "LDCE") and 25% posts by direct recruitment.

The seniormost amongst the applicants namely Shri V.R.Sareen would get promotion in his turn. They were free to appear in the LDCE if they were interested in getting promotion. It is explained that all employees have all India transfer liability. These transfers are dictated by the operational, administrative and functional requirements of the organisation. There was thus no arbitrariness in the transfers. The respondents explained that there was no requirement of effecting transfers on the basis of a common seniority list which included officials working in other constituent units of the Directorate General of Security. As far as the applicants are concerned, the posts alongwith the incumbents were restored to the field units for which they were sanctioned. This would meet the operational need of the field units. With regard to competency of the Joint Director, it is submitted that the internal transfers within the constituent units can be made by the Joint Director. The Joint Director(P&C) is the appellate authority when the transferred employees belong to more than one constituent unit. As the applicants have been transferred on the basis of longer stay in Delhi and in the interest of Government work, there is no basis to allege discrimination. Against the sanctioned strength of eight stenographers at the SSB Directorate, twenty-one are in position and thus thirteen surplus stenographers have only been transferred.

4. The most important ground of the applicants is that some posts of stenographers were proposed to be surrendered in the cadre review of the D.G.S. Secretarial Service. This report was made sometime in 1991 but no decision was taken on its recommendations. It is further stated that the employees of DACS, CIOA and IFU are pooled together and borne on the strength of SSB for transfers and postings.

5. With regard to para 4.17 of the OA, the respondents have explained that both husband and wife were to be posted as far as possible at the same place.

6. The applicants filed a rejoinder. It is stated that there are 76 senior officers posted who require the assistance of stenographers. The total requirement of the stenographers in the SSB Directorate is about 65. That was the reason why 13 posts were transferred to Delhi from out-stations. The applicants state that while there are 92 posts of stenographers in the field units, the cadre review in the D.G.S. Secretarial Service had recommended abolition of 80 posts of stenographers in the various field units. The other contention is that although the respondents contend that there is shortage of stenographers under SSB field units, they had already allowed and relieved as many as 12 stenographers to go on deputation to SPG and other organisations during April-May, 1999. Besides this, the applications of about two dozens of stenographers have been processed and forwarded for deputation to NSG, SPG and other

organisations. There is an allegation of favouritism and pick and choose in sending persons on deputation. They allege that primary criterion of longest stay has not been followed and lady employees have been posted to Stations where there is no accommodation. It is urged that stenographers with working spouses should be transferred only for a fixed tenure whereafter they should be brought back to Delhi. The applicants challenge the legality of the transfer order in the following words:-

"It is further submitted that the 3 Stenographers of the Directorate of Accounts and 1 Stenographer of the Integrated Finance Unit have been clubbed and pooled with the strength of Stenographers of the SSB for the purpose of transfers only. The Directorate of Accounts and the Integrated Finance Unit are not even the constituent units of the Directorate General of Security like the ARC, SSB, SFF and CIOA. The Heads of the Directorate of Accounts and the Integrated Finance Unit are not under the Principal Director, who is head of SSB, ARC, SFF and CIOA. The Directorate of Accounts and the Integrated Finance Unit are independent organizations in all respects."

7. Shri B.B.Rawal, learned counsel for the applicants emphasised in his oral arguments that transfers are made to fill up posts which were lying vacant for more than a decade. He stated that the Director, SSB is not competent as all the applicants belong to other units.

8. Shri V.S.R.Krishna, learned counsel for the respondents stated that there is no mention about the working of the spouses and the details of their posting in the pleadings. There was an interim order

on 19.3.99 that the respondents should not compel the applicants to proceed in accordance with the impugned transfer order. Thereafter the interim order continued. Shri Krishna pleaded that the work of the field units has been adversely affected by the non-implementation of the impugned orders.

9. It is to be noticed that the recommendations made by the High Power Committee appointed by the Govt. of India for a review on the role of SSB have been accepted by the Committee of Secretaries headed by the Cabinet Secretary to the Govt. of India. These recommendations include that the field units already functioning in U.P. and H.P. under the SSB Directorate should be closed. Similarly the field units at Jammu, Ranidanga and Kashipur should also be closed. If these recommendations were to be followed, even the existing posts will have to be abolished. About 40 posts of stenographers of field units would be required to be abolished on the basis of these recommendations. The question of providing stenographers in the field units does not arise at all. It is thus urged by the applicants that there is no public interest involved in these transfers. If public interest was involved, the respondents could not have sent 12 stenographers on deputation.

10. It is urged by Shri Rawal vehemently at the time of arguments that the applicants belong to different constituent units of Directorate General of Security and form a common cadre with common seniority. Their transfer should be made only by the

Joint Director (P&C) as the Cadre Controlling Authority and the stenographers working under DACS, CIOA and IFU are not part of the SSB's sanctioned strength.

11. The law on the subject of transfer is very well settled. I am unable to appreciate the grounds raised by the applicants. The applicants have rendered decades of service and have been staying in Delhi since long. It is immaterial that there are more seniors than them. It is not a case of discrimination. The applicants were transferred because there was acute need for their services in the field. I have consulted the records and gone through the detailed notes submitted. From the consideration given to the requests of all the employees at various levels, I am of the view that there is no arbitrariness or discrimination involved in the transfers. I am satisfied that the transfers are made on the ground of administrative exigency. I reject the plea that the transfers are made on pick and choose basis. If some employees are sent on deputation, it only means that the borrowing department accepted their services. It is common knowledge that the lending department cannot dictate the terms for nominating specific persons. Nobody prevented the applicants from competing with others in joining deputation posts.

12. There is no connection or linkage between transfer and promotion. The applicants cannot dictate that their transfers be linked with promotion. Promotion is a different aspect altogether. Rules for

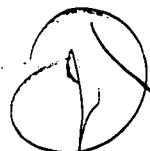
promotion are different and have to be complied with.

If there is violation of these rules, the Government servant is at liberty to challenge the infraction of these rules. It is admitted that the applicants are liable for an all India transfer and transfer is a normal incident of service.

13. The points raised about cadre review is unacceptable. Any recommendation cannot be pressed as a plank for relief. If the recommendation is accepted by the Government and transmuted into a rule or law to be passed by Parliament or the President (by an ordinance) or by the rule making authority empowered to do so, then it is enforceable. Mere recommendations cannot be taken cognizance of.

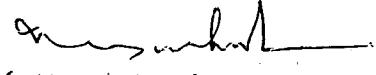
14. The competence of the Director,SSB has been challenged. This is also unacceptable. The applicants are under the control of SSB. They may belong to any other wing of the Directorate General of Security but as they are under the control of SSB, the Director SSB is competent to transfer their services as per the operational dictates. I have studied each of the guidelines and I am satisfied that these were not infringed. I am also satisfied that the representations of the applicants were considered with care and wherever possible, the transfers were deferred.

15. I am of the view that there is no material to support the allegation that the transfers are made on pick and choose basis. It is also settled law that



hardships caused to the employees from transfer cannot be a ground for judicial review of the transfer order (State of M.P. vs. S.S.Kourav, 1995(3) SCC 270). It is also settled law that the holder of a transferable post cannot insist on his posting at a particular place. Any transfer made by a competent authority for administrative reasons is not subject to judicial review. There is no allegation of malafide. In the absence of prima facie material, every transfer order is presumed to be only bonafide. I therefore find neither impropriety nor malice in the transfer order. The said impugned order does not call for any interference.

16. In view of the above observations, the O.A. is dismissed. No costs. It goes without saying that interim orders stand vacated.

  
( N. Sahu )  
Member(Admnv)

/dinesh/