

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1130/98

New Delhi, this the 19th day of June, 1998

Hon'ble Shri T.N. Bhat, Member(J)

(3)

In the matter of:

V.K. Sharma,
s/o Sh. Sham Lal Sharma,
Labour Officer,
r/o P-2, Sector - 1,
NOIDA.Applicant

(By Advocate: Shri R.V.Sinha)

Versus

Union of India through:

1. Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
New Delhi.
2. Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
Ministry of Health and Family Welfare,
New Delhi.Official respondents

(By Advocate: Shri R.P. Aggarwal)

3. Ms Monica Goswami gdv v CLS Officer,
D-011, Pragati Vihar Hostel,
Lodhi Road Complex, New Delhi.Respondent

(In person)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)-

Pleadings in this OA being complete, the learned counsel for the parties as also respondent no. 3, who appeared in person, requested that this O.A. may be disposed of on merits at the admission stage itself.

2. This being a Single Bench matter, I heard the learned counsel for the parties and the respondent no. 3 in person on 16.6.1998 for final disposal of the O.A. I have also perused the material on record.

19.6.98.

3. The applicant in this O.A. is aggrieved by the office order No. 25 of 1998 by which he has been retained at I.G.Mint, Noida and the earlier order of his transfer to Dr. R.M.L. Hospital, New Delhi as Labour Officer has been modified. The earlier order had been issued on 16.3.1998 by which the applicant, who was working at I.G. Mint, Noida, was ordered to be transferred to Dr. R.M.L. Hospital, New Delhi.

(A)

4. Admittedly, the applicant had been relieved from the Noida office and had already joined at Dr. R.M.L. Hospital, New Delhi in the month of April and according to him, the impugned order amounts to his transfer within less than three weeks of his taking over at Dr. R.M.L. Hospital, New Delhi. He assails the impugned order on the ground of malafides as, according to him, this order was issued only with a view to accommodate respondent no. 3. The applicant also takes the plea that the impugned order is in contravention of the policy regarding transfer laid down by the respondents themselves.

5. The official respondents have filed a detailed counter in which they have emphatically denied that the impugned transfer order was an outcome of malafides on the part of the respondents and in this regard they state that the transfer order was issued on the recommendation of a Transfer Committee headed by Joint Secretary/ Additional Secretary in the Ministry of Labour and the Chief Labour Commissioner. It is further averred that immediately after the issuance of the earlier order dated 16.3.1998 some representations were

Subj: [Signature]

received, one of them from respondent no.3, who is a lady officer and who wanted to be retained in Delhi due to her peculiar personal problems. It is further averred that the applicant and his superior officer at I.G. Mint, Noida were directed on telephone not to relieve the applicant till further orders, but that despite this direction, the applicant managed to get himself relieved and joined at Dr. R.M.L. Hospital, New Delhi. Respondent no. 3 is reported to be living alone in New Delhi as, according to her, ~~the~~ ^{her} relations with her husband are strained.

6. Learned counsel for the applicant, relying upon the judgements of the Tribunal, reported in (1991) 15 ATC 36 and (1996) 34 ATC 255, urges before me that this is a clear case where the official respondents, in order to accommodate respondent no. 3, have disturbed the applicant and have transferred him within three weeks of his taking over as Labour Officer in Dr.R.M.L. Hospital, New Delhi. In reply, the learned counsel for the official respondents states that this is a simple case of modification of a transfer order on the basis of representations received from persons effected by the earlier transfer order dated 16.3.1998 and the question of malafides would not at all arise in this case, especially so when the matters of transfer are decided by the concerned Department on the recommendations of a Committee headed by Additional Secretary/Joint Secretary in the Ministry of Labour.

Subj

7. On consideration of the rival contentions of the parites I am inclined to agree with the contentions made by the counsel for the official respondents and, by respondent no. 3 in person. As already indicated, after the issuance of the transfer order dated 16.3.1998 the applicant was informed through his superior officer at I.G. Mint, Noida that he should not get himself relieved. However, it appears that at the instance of the applicant his superior officer at Noida relieved him after waiting for about a month or so and the applicant joined his new place of posting, even though he knew that the transfers were probably under re-consideration.

(6)

8. It is not the case of the applicant that such modifications cannot be made in a transfer order, particularly so on consideration of representations from an effected transferee. As contended by the respondents, since the earlier transfer order was adversely affecting respondent no. 3, and some other persons who made representations the transfer order was modified and respondent no. 3 was retained at New Delhi though against another post, that of Labour Officer in Dr. R.M.L. Hospital. I am convinced that there is no evidence of malafide in issuance of the impugned order.

9. As regards the alleged contravention of the guidelines it would suffice to say that such guidelines are not enforceable in law. Furthermore, the guidelines relied upon by the applicant only make a mention of the maximum tenure for which a person can continue to be posted at a particular place.

[Signature]

10. For the foregoing reasons I find no merit in this O.A. which is accordingly dismissed, but without any order as to costs. *Interim order stands vacated.*

Interim order stands vacated
19.6.98.
(T.N.Bhat)
Member (J)

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