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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O. A. No. 2067/98

New Delhi, this the 27th day of October, 1998

HON'BLE MR. N. SAHU, MEMBER(A)

Mr. M. V. Cherian,
Junior Accounts Officer,
Office of the Executive Engineer,
ED XIV, CPWD,
Pragati Maidan,
New Delhi.

....Applicant

(By Advocate: Mrs. V. Mohana)

Versus

1. Union of India through
The Controller of General of Accounts,
Ministry of Finance,
Department of Expenditure,
7th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi-110 003.

2. The Chief Controller of Accounts,
Ministry of Urban Affairs & Employment,
F Wing, Second Floor,
Nirman Bhawan,
New Delhi.

3. The Chief Controller of Accounts,
Ministry of Finance,
Central Board of Excise & Customs,
A.G.C.R. Building,
New Delhi.

....Respondents

(By Advocate: None)

O R D E R (ORAL)

HON'BLE MR. N. SAHU, MEMBER(A)

Heard the ld. counsel for applicant.

2. The applicant is under orders of transfer from the Ministry of Urban Affairs & Employment (UA&E) to the Central Board of Excise & Customs (CBEC), Delhi. The transfer order is not enclosed with the petition but the ld. counsel has produced a copy of the same before me while addressing the court during the arguments. There should be normally no grievance when the transfer

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is within the same Station. Ld. counsel, however, draws my attention to Annexure-B dated 21.12.90 wherein it is stated that JAOs allocated to a particular Ministry/Department are not transferred to other Ministries except under special circumstances. She has also produced before me a copy of the notification dated 10.7.78 which is issued in exercise of powers conferred by the proviso to Article 309 of the Constitution wherein rule 6A deals with inter-ministry transfers. Relevant extract is as under:-

"(6A)- Inter-Ministry transfers

- (1) The Govt. (C.G.A.) may, if satisfied that it is necessary or expedient in the public interest so to do, by order, for reasons to be recorded in writing, transfer a member of the service from one Ministry to another Ministry.
- (2) The transfer of a member of the service as aforesaid shall not affect his seniority in his grade."

3. The Supreme Court has held in the case of Gujrat Electricity Board vs. Atmaram Sungomal Poshani - AIR 1989 SC 1433 that the transferred employee has no right except to file a representation. Secondly it is very clear that this court has no power of judicial review against transfer order unless the same violates a rule or is malafide. Ld. counsel states that violation is of Rule 6A extracted above.

4. Ex-facie, it would not be correct to entertain this O.A. when the alternative remedy of filing a representation is not exhausted. This O.A. can be disposed of by issuing a suitable direction to the Chief Controller of Accounts, Ministry of Urban

Affairs & Employment, New Delhi, respondent no.2. Applicant shall address a representation to respondent no.2 within a period of 4 days from today. Respondent no.2 shall dispose of the representation within a period of two weeks from the date of receipt and till the same is disposed of, the applicant shall not be relieved from his present office.

5. The O.A. is disposed of with the above directions at the admission stage. No costs.

N. Sahu
(N. Sahu)
Member (A)

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