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Recd on 26/4/96

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.No.657/95

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 28th day of April, 1996

Shri ~~R~~ool Chand
s/o Shri Roshan Lall
Senior Computer
Ministry o Water Resources
ER Wing
Block - 11, 8th Floor
C.G.O.Complex
Lodhi Road
New Delhi
r/o 291, Main Road
Mandavli, Fazalpur
Delhi - 110 092.

... Applicant

(By Shri S.C.Saxena, Advocate)

Versus

1. Secretary
Ministry of Water Resources
Govt. of India
Shram Shakti Bhawan
New Delhi.

2. Shri R.S.Prashad
Senior Joint Commissioner
Ministry of Water Resources
WR Wing, CGO Complex
Lodhi Road
New Delhi.

3. Shri V.K.Bhatnaagar
Assistant Director
Ministry of Water Resources
ER Wing, CGO Complex
Lodhi Road
New Delhi.

... Respondents

(By Shri M.M.Sudan, Advocate)

O R D E R

The Petitioner a Senior Computer in the Department of Water Resources is aggrieved that due to malice and malafide on the part of his superiors, he has been subjected to unwarranted frequent transfers to one place or another in a short period of a few months, causing him inconvenience and humiliation. He seeks a direction that the respondents should ^{be} restrain^d from posting him out of the Ministry of Water Resources. Through a miscellaneous

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application, the relief sought was amended to include the quashing of transfer order dated 16.12.1994 from the Ministry to the Central Water Commission.

2. According to the applicant, he happened to ~~meet~~ the ~~...with~~ of his Assistant Director, Shri V.K.Bhatnagar because he intervened in a quarrel between one Shri Shital Dass, P.A.(Slabes) and Shri V.K.Bhatnagar on 15.7.1994 when the latter ~~abused~~ the applicant for belonging to the Scheduled Castes. The applicant narrated the episode to Shri R.A.Prasad, Assistant Commissioner(Administration) but he also joined ~~...~~ ~~sides~~ with Shri V.K.Bhatnagar resulting in the issue of a memo. calling for his explanation. The applicant thereafter, took up the matter with the Secretary of the Department, but to no avail and respondent No.3 had him posted out from the Ministry to Central Water Commission vide order dated 29.9.1994. Since Central Water Commission did not have vacancies for a Senior Computer, the applicant was directed to report back to the Ministry where he was attached to the Administrative Wing and then posted on 28.11.1994 to Sindhu (Indus) Wing of the Ministry, but from here also he was sent back on 2.12.1994. Thereafter, he was again transferred to Central Water Commission(CWC) vide the impugned order dated 16.12.1994. As stated by him in his rejoinder, he took leave and finally joined in CWC on 1.6.1995 under protest.

3. The respondents have submitted in reply that all the posts of Senior Computers are borne on the cadre of CWC though some of them work in the ministry. They state that a complaint about the misbehaviour of the applicant had been received from Shri V.K.Bhatnagar on 29.7.1994 and a preliminary enquiry was made. The Commissioner (ER) also constituted a Committee under the Chairmanship of an officer in the rank of Senior Joint Commissioner to look into the complaints made by the applicant

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against Shri V.K.Bhatnagar but the report of the committee is still awaited. However, in the circumstances, where there were complaints and counter complaints, the applicant was transferred to CWC as an administrative measure. Since there was no vacant post in CWC, the latter requested to keep the applicant on the strength of the Ministry. The applicant was then sent to Indus (Sindhu) Wing but there too there was a requirement for a Research Assistant and the applicant could not be adjusted. It was ⁱⁿ these circumstances that the applicant was finally posted back to CWC vide impugned order dated 16.12.1994. The respondents deny allegations of any malafide in these transfers.

4. The learned counsel for the applicant Shri Saxena pointed out to the long service of the applicant of 30 years without any blemish and argued that it was only the upper caste mentality of Shri Bhatnagar and the support he had from his superiors that resulted in the humiliation of the applicant through his frequent transfers like a shuttle-cock from one place to another. He also drew attention to the allegations of the applicant that as a result of the enmity of Shri Bhatnagar, the ACR of the applicant for the year 1993-94 had also been spoilt.

5. Learned counsel for the applicant also drew my attention to the Ministry of Personnel, Public Grievances and Pension O.M.No.26/3/85 Est. dated 24.6.1995, regarding harrasment and discrimination of Scheduled Caste employees and said that the said OM referred to allegations about SC/ST being posted to far off places and also being placed in insignificant posts and that this should be stopped. The Ministry of Water Resources being a superior establishment to CWC, the counsel argued vehemently, the

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transfer of the applicant from the former to the latter involved a transfer to a less significant post and thus constituted a stigma which the aforementioned O.M. specifically prohibited.

6. ⁸ We have carefully considered the arguments of the learned counsel on either side and the pleadings on record. It is admitted on both sides that there was an incident involving the applicant and Shri V.K.Bhatnagar, his Assistant Director, resulting in complaints and counter complaints. The respondents also admit that the first transfer order of the applicant to CWC was issued as a result of this incident. It is also argued that the CWC was not inclined to accept the applicant because there was no vacancy of Computer available nor the ^{Section 4.1g} ~~Section 4.1g~~ could accept him as there was a need for a Research Assistant. Finally the authorities managed to place the applicant in CWC where he joined after a gap of time under protest. I am inclined to agree with the case of the respondents and as argued by Shri M.M.Sudan, learned counsel for the respondents, that in the circumstances some administrative action was called for to avoid tension and trouble in the office and since the applicant belonged to the cadre of CWC, the action of the authorities in adjusting him there was understandable. The chain of 2 or 3 transfers prior to his final adjustment in CWC only go to show the efforts made by the respondents to adjust him away from the section in which Shri Bhatnagar was working. In the circumstances the various transfer orders and final adjustment of the applicant in CWC cannot be regarded as the result of malafide on the part of the respondents. Shri Bhatnagar is undoubtedly the senior of the two and it has not ^{been} made out by the applicant that he could be transferred to CWC. In the circumstances one cannot find fault with the decision of the ministry.

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7. I am also strengthened in my conclusion by the fact that the quarrel between the applicant and his immediate superior Shri Bhatnagar has even reached the bar of a Criminal Court. The applicant has alleged that action should be taken against superior officers who have all conspired together to harm him since he belongs to Scheduled Caste. While one may give some credence to an allegation in the case of one or two persons the all encompassing and wide ranging allegations made by the applicant in his complaints to the Secretary, copies of which have been annexed to the OA, that everybody in his office including the Assistant Commissioner (Administration) and by implication the Secretary of Department also were actuated by an anti Scheduled Caste bias are not credible. No doubt the criminal trial will show whether charges made by the applicant can be established or not and the law would undoubtedly take its own course. Here I am solely concerned with the service aspect and one can find no fault with the administrative action taken by the respondents to find a different work places for the applicant and Shri Bhatnagar who had been indulging in complaints and counter complaints and even criminal cases against each other.

8. In view of the above discussion, I find no cause to interfere in the matter and the application is accordingly dismissed. There will be no order as to costs.


(R.K. AHOOJA)
MEMBER(A)

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