

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH.

O.A.NO.1420/96

New Delhi: this the 6th day of September, 1996

HON'BLE MR.S.R.ADIGE MEMBER (A).

HON'BLE DR.A.VEDAVALLI MEMBER (J)

1. Rajendra Jha,
s/o Late Shri Shyam Chand Jha,
r/o SC Staff Quarters, CTI Complex,
Raja Garden, New Delhi.
2. Om Prakash,
S/o Shri Bhagwan Singh,
R/o 5, Krishan Kunj Extension, Part II,
Laxmi Nagar, Delhi.
3. Shri G.S.Verma,
S/o Shri Sohan Singh ,
R/o 141, Suraksha Enclave,
Pitampura, Delhi.
4. G.S.Tomer,
S/o Shri Devi Singh,
R/o 29A/DA Hari Nagar,
New Delhi.
5. Shri R.S.Gaur ,
S/o Shri Brahma Singh,
R/o Vill. & PO Sahabad , Mohammadpur ,
New Delhi

All working as DSO, Directorate of
Home Guard and Civil Defence, Delhi.

.....Applicants.

By Advocate: Shri Naresh Kaushik.

Versus

1. Union of India

through Lt. Governor, Delhi,
Raj Niwas, Govt. of NCT, Delhi,
Rajpura Road, Delhi.

2. Govt. of NCT through
Chief Secretary, 5,
Sham Nath Marg, Delhi -54.

3. Shri Puran Singh, IPS,
Commandant General Home Guard,
Cum Director Civil Defence,
Raja Garden, New Delhi.

4. Principal Secretary (Home),

JUDGMENT

BY HON'BLE MR.S.R.ADJIGE MEMBER (A).

In this application, Shri R.Jha and 2 others, all working in Directorate of Home Guards & Civil Defence, Delhi Administration have impugned the transfer order dated 3.7.96, and have prayed for regularisation with effect from the dates of their adhoc appointment. Applicants 4 and 5 have not pressed this OA.

2. By impugned order dated 3.7.96 applicant No.1 Shri Rajendra Jha, District Staff Officer (HG) has been transferred as Inspector, Civil Defence, Gandhi Nagar. Similarly applicant No.2 Shri Om Prakash, District Staff Officer (North-East) has been transferred to Regional Training Centre, Vikas Bhavan and applicant No.3 Shri G.S.Verma, District Staff Officer (North West) has been transferred to Regional Training Institute, Vikas Bhawan. The applicants contend that while they are presently in the scale of Rs.1640-2900 (pre-revised) they are being transferred to posts of Inspector or its equivalent in the lower scale of Rs.1400-2300 (pre-revised), which involves reversion and is hence arbitrary, illegal and discriminatory. It is averred that there are no equivalent posts in the scale of Rs.550-900 in the units to which they are being transferred and the work they will be called upon to perform on these posts involves discrimination in their status and unwarranted humiliation. It has also been contended that transfer of the applicants to posts other than that held by them is violative of

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statutory rules and amounts to malice in law.¹

3. We have heard applicants' counsel Shri Naresh Kaushik and respondents' counsel Shri Surat Singh. At one stage during the course of hearing Shri Kaushik had sought permission to withdraw from the case, which was allowed, but thereafter upon his further prayer to be allowed to continue with his arguments, he was allowed to do so.

4. It is not denied that applicant Shri Om Prakash, on promotion from Inspector has been regularised as a Company Commander (equivalent to DSO/ Senior Inspector) in the scale of ~~Rs 650-200~~^{Rs 640-200} while the other 2 applicants have been promoted from the rank of Inspector to that of DSO (equivalent to Sr. Inspector) on ad hoc basis.

5. In so far as the applicants' transfer being violative of statutory rules is concerned, no rules have been cited under which the respondents are debarred from transferring them. It is not denied that under the terms and conditions of their appointment they are liable to transfer and in the absence of any rules shown by the applicants which debars the respondents from transferring them, this ground fails.

6. As regards the applicants' argument that they are being transferred to posts in a lower pay scale which amounts to reversion,

discrimination in pay scales, lowering in status, humiliation etc. the transfer order in respect of applicants Om Prakash and G.S. Verma merely state that they are being transferred to RTC Vikas Bhawan. The post to which they are being transferred has not been mentioned. In the transfer orders in respect of applicant R.Jha, it has been stated that he is being transferred as Inspector Civil Defence, Gandhi Nagar. However, an addl. affidavit dated 26.8.96 has been filed by the respondents which is taken on record, in which it is stated that applicants Om Prakash and G.S. Verma are being transferred as Sr. Inspector, RTC Vikas Bhawan, while applicant Rajender Jha is being transferred as Sr. Inspector RTC Gandhi Nagar. Applicants' counsel has relied on the contents of the Civil Defence Hand Book No.1 on General Principles of Civil Defence in India and the contents of the Civil Defence Scheme for UT of Delhi to persuade us to believe that there are no posts of Sr. Inspectors in RTC at Vikas Bhawan or Gandhi Nagar, but respondents' counsel has shown us a copy of Delhi Administration's letter dated 2.2.74 converting 3 posts of Sr. Inspector/ District Staff Officers into permanent ones and upon instructions from the departmental representative who is present in court, we are informed that the applicants are being posted against the 3 posts of Sr. Inspectors.

7. Prima facie, in the light of the addl. and a.m. made, we have no

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reason to doubt that the applicants are being transferred to the posts of Sr. Inspectors in RTC Vikas Bhawan and Gandhi Nagar. In Civil Appeal No. 2943-2945/89 UOI Vs. H.N. Kirtania, the Hon'ble Supreme Court has held that a Govt. servant who holds a transferable post, has no legal right to insist on staying at any place of his choice and transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on grounds of violation of rules or on malafides. The respondents have stated that the transfer has been made in the public interest, and no violation of rules or materials in support of malafides have been brought to our notice.

Again in Civil appeal No. 3561/86 Gujarat Electricity Board and another Vs. A.S. Paghani, the Hon'ble Supreme Court has held that transfer of a Govt. servant who holds a transferable post is an incident of service whereon a public servant is transferred, he must comply with the order, but if there is any genuine difficulty in proceeding on transfer it is open to him to represent to the competent authority, but if the transfer order is not stayed, modified or cancelled, the concerned public servant must comply with the transfer orders.

8. In the light of these two rulings we are satisfied that no interference in the transfer

orders is warranted and the ruling in V.C.M. Union Vs. D.N. Jha 1986(3) SCC 7 relied upon by applicants' counsel is not relevant in the particular facts and circumstances of this case.

9. The OA is therefore dismissed, and the interim orders passed on 8.7.96 and extended from time to time are vacated. No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
MEMBER (J)

A. Radige

(S. R. RADIGE)
MEMBER (A)

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