

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

2014/96
O.A. No. 2014/96
T.A. No.

199

(7)

DATE OF DECISION

20-12-1996

Shri Lal Sahib Singh

Petitioner

Shri S.S. Tiwari

Advocate for the Petitioner(s)

Versus

Respondent

U.O.I. & Ors

Advocate for the Respondent

Sh.O.P. Kshatriya

CORAM

The Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

The Hon'ble Mr.

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal *X*

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(8)

O.A. No. 2014/96.

Date of decision 20-12-96

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Lal Sahib Singh
s/o Sh. Raja Ram Singh
R/o Malihut, Sri Krishna Bal Vatika
Railway Colony, Thompson Road, New Delhi.

... Applicant
(By Advocate Sh. S.S. Tiwari)

Vs.

1. Union of India, through
Genl. Manager, N.R. Baroda House,
New Delhi.
2. Shri Bhupender Kumar,
Divisional Supdt. Engineer(Estate)
D.R.M. Office, New Delhi Rly. Station.
3. Divisional Personnel Officer,
Northern Railway,
New Delhi Rly Station, New Delhi.
4. Assistant Engineer(Horticulture)
Northern Railway,
D.R.M. Office,
New Delhi Rly. Station,
New Delhi.
5. Inspector of Works (Horticulture)
N.D.L.S.II
New Delhi Rly. Station,
New Delhi.

... Respondents

(By Advocate Shri O.P. Kshatriya)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

This case was tagged with OA 2280/95¹⁸ both these OAs have been filed by the same applicant and the learned counsel for the applicant had got this case tagged with OA 2280/95. In that case, however, the respondents have sought time and the case is directed to be listed on 8.1.1997 as part-heard.

2. I have heard both counsel and have also seen the pleadings.

3. The applicant has impugned the transfer order dated 6.9.96 transferring him from Delhi to Shamli on the grounds that it is illegal, malafide and arbitrary. This transfer order has been

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passed by Respondent 3 but the applicant has alleged that it has actually been done at the behest of Respondent 2 i.e. Shri Bhupender Kumar, Divisional Supdt. Engineer(Estate), D.R.M. Office, New Delhi Rly Station. The applicant has alleged that since the respondents wanted the applicant to vacate the Mali hut, they had illegally resorted to the procedure/transferring him out of Delhi so that he would have to vacate the Mali hut.

4. The respondents have filed their reply in which they have raised the preliminary objection that the application is liable to be dismissed on the grounds that the departmental remedies have not been exhausted under Section 20 of the Administrative Tribunals Act, 1985. They have submitted that his transfer order is on administrative grounds to maintain the plantation of trees where service of Malies are required.

5. In compliance with the Tribunal's order dated 4.12.96, Shri O.P. Kshatriya, learned counsel has produced the relevant records. In the impugned transfer order dated 6.9.96 reference has been made to DSE(Estate)/NDLS letter dated 26.3.96 (copy is placed on record). In the letter of the DSE Estate/NDLS dated 26.3.96, but signed on 8.4.96, and received by the department on 10.4.96, it is mentioned *inter alia*, that in order to facilitate the progress of work of providing PF No.11 and 12 alongwith aprons, it was proposed that applicant be transferred out of Delhi immediately so that the Mali hut in question could be got vacated by him. Therefore, it appears that the impugned transfer order has been passed only in order to get the Mali hut vacated by the applicant and not for the purpose of planting trees as submitted by the respondents. It is also relevant to note that Respondent 2 has not filed a separate affidavit in reply, although the letter issued by him, which is referred to in the impugned order, shows that the proposal to transfer the applicant has been done by him in order to get the Mali hut vacated.

6. The applicant has also submitted that he does not have

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any transfer liability and that he is posted at I.O.W.

(Horticulture) New Delhi. In the reply, the respondents have submitted that this position is not correct but "so many malies have been transferred from one place to another." This reply is vague and unsatisfactory and the respondents ought to have given the details of the malies, if any, transferred from Delhi to any other place on administrative grounds which they have not done.

7. In the facts and circumstances of the case, the preliminary objection raised by the respondents under Section 20 of the Administrative Tribunals Act, 1985 is rejected and this application is liable to succeed.

8. For the reasons given above, this O.A. is allowed and the impugned transfer order dated 6.9.96 is quashed and set-aside. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

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