

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2644 of 1997

New Delhi, this the 10th day of February, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)

Narinder Pal Singh, Junior Engineer
(Civil) Office of SSW/NDZ(I), CPWD
Nirman Bhawan, New Delhi.

-APPLICANT

Versus

Union of India through

1. The Superintending Engineer,
Cordination Circle (Civil), CPWD
Y-Shape Building, I.P.Estate, New
Delhi.

2. Superintending Surveyor of Works,
New Delhi Zone (I), CPWD, Nirman
Bhawan, New Delhi.

3. Director, General of Works, CPWD,
Nirman Bhawan, New Delhi.

-RESPONDENTS

(By Advocate - Mrs.P.K.Gupta)

J U D G M E N T

By Mr. N. Sahu, Member (Admnv) -

The applicant is aggrieved against the impugned orders dated 11.4.1997 (Annexure-A-1) and 22.10.1997 (Annexure-A-2). The first order transfers him from New Delhi to Ajmer C.D. (Mt.Abu). Annexure -A-2 is a note submitted by one Shri S.K.Singhal, Superintending Engineer, CPWD, New Delhi justifying the applicant's transfer.

2. The background facts in brief are that the applicant has been continuously working in Delhi since 1.11.1977. The normal tenure for continuous stay for a Junior Engineer is four years at all stations except Delhi where it is fixed as 10 years.

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On the completion of his tenure the applicant was transferred to Chandigarh, Central Circle by an order dated 13.4.1992. His request for retention in Delhi was acceded to and he was retained upto 31.12.1993. He filed the first O.A. No.1984/92 against his transfer out side Delhi which was rejected. Till the said O.A. was disposed of he was not disturbed. On receipt of the order of this Court dated 3.12.1993 he was relieved from PWD Circle-IV(NCT) on 29.4.1994. He joined at Chandigarh on 15.6.1994 which was two years after his transfer. Since two years have elapsed and as no post was available at Chandigarh he was transferred back to Delhi. He was on deputation to Navodiya Vidhyalaya Samiti Delhi.


3. The next round of litigation of the applicant was on the point as to whether his stay in this Vidyalaya could be excluded from his stay at Delhi. I am of the view that such term in Delhi even though on deputation cannot be excluded from his total stay in Delhi. On repatriation from Navodiya Vidyalaya the applicant had been posted to SSW(NDZ)I, CPWD, Nirman Bhawan, New Delhi considering the mid academic session, though the applicant was due for outside posting. His name did not figure in the readiness list dated 16.1.1995 as during this period he was on deputation. He was thereafter selected on deputation to Department of Bio-technology, New Delhi on 1.2.1996. He remained there upto 28.2.1997. Thereafter he was directed to join his parent office i.e. SSW NDZ-I. Thus, for a period of roughly 20 years the applicant never moved out of Delhi. His

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name accordingly was included in the readiness list issued by the office, dated 3.2.1997 and he was transferred to Ajmer Central Division (Mount-Abu Section) in Field Group.

4. The applicant mentions that the transfer was malicious and penal in character. He alleges bias and malafide to the respondents. He cites a decision of the Hon'ble Supreme Court in the case of *Director of School Education, Madras and others Vs. O. Karuppa Thevan and another*, (1994) 28 ATC 99. Their Lordships in that case had set aside the impugned order of transfer made in mid academic session and directed that the respondents would not effect the transfer till the end of academic year. He mentions his personal difficulties of old parents and relations. He also states that he secured admission of his children in Delhi and he himself secured admission by qualifying entrance test for a Diploma in Construction Management.

5. I have carefully considered the submissions made by the applicant. In an earlier O.A. No. 772/97 filed by him, this Court allowed vide order dated 29.5.1997 one more opportunity to the applicant to represent his grievance against the order of transfer and the same was disposed of by Annexure-A-2. I am satisfied that there is absolutely no merit in the present Original Application. I agree with the learned counsel for the respondents that from the number of litigations entered into by the applicant he seems to have spent



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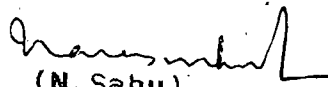
more time in the Court than in the office. The decision in the case of O. Karuppa Thevan (supra) relied upon by the applicant is not applicable to his case because the impugned order of transfer was issued on 11.4.1997. If the applicant in all sincerity obeyed this order, there would have been no need for him to admit his children in a Delhi school. He chose to litigate. The transfer order was issued in the applicant's case after considering his stay in Delhi for about two decades.

6. Transfer is an incident of service. A decision taken to transfer an employee in administrative exigencies and public interest is not open to challenge on grounds of discrimination and personal hardship. There is no vested right to a particular post. The Government as an employer is the best judge to utilise his services. **E.P. Royappa Vs. State of Tamil Nadu & another, (1964)2 SCR 348.** Where and how the said services are going to be utilised cannot be questioned. An order of transfer cannot be the subject of a judicial review as long as it does not infringe a legally enforceable rule or is actuated by malafide. In this case I find that no guidelines were violated or infringed. The allegation of bias and malafide has been taken by the applicant without any basis or merit. The history of the applicant's stay in Delhi is seen as an obsession to stick on to this place. In these 20 years when the applicant stayed in Delhi, a substantial number of people were transferred out of Delhi and all of them complied. In fact in the very impugned order at

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Annexure-A-1 a number of persons were affected and I am told at the bar that most of the orders have been complied with immediately. The applicant is now left with no valid reasons to continue to stay in Delhi. I also find that the respondents have very patiently dealt with his representations and accommodated him as far as it was administratively feasible.

7. In the result, the Original Application is dismissed. For this vexatious litigation undertaken by the applicant repeatedly in spite of the settled legal position on the subject unmindful of the time he had wasted of this Court as well as that of the Govt. I award a cost of Rs.1,000/- (Rupees one thousand only) to be paid by him within a period of four months from the date of receipt of a copy of this order at the cash section of CPWD Nirman Bhawan under an appropriate head after taking advise of respondent no.2 in this regard. He shall report compliance soon after in a written communication to the Registrar of this Court.


(N. Sahu)
Member (Admnv) 19/2/98

rkv.