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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.NO.2495/94

New Delhi: May 19, 1995.

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

Shri P.N.Pandey,
s/oShri Bindeshwari Pandey,
1032/41, DDA Colony,
Kalkaji,
New Delhi.
By Advocate Shri P.K.Bahl.

Versus

.....Applicant.

1. Union of India, through Secretary,
M/o Textiles,
Udyog Bhawan,
New Delhi-01.

2. Development Commissioner,
(Handicrafts),
West Block-7,
R.K.Puram,
New Delhi-66.

3. Shri S.S.Sharma,
Regional Director (NR),
Office of Development Commissioner,
(Handicrafts),
West Block-8, R.K.Puram,
New Delhi-66

....Respondents.

By Shri E.X.Joseph, Advocate.

JUDGMENT

By Hon'ble Mr.S.R.Adige, Member (A).

In this application, Shri P.N.Pandey, Technical Asstt, Regional Design and Technical Development Centre, has impugned the order dated 5.12.94 transferring him in the same capacity to Bangalore. A prayer for interim relief was considered after hearing both parties and was rejected by order dated 3.1.95.

2. The applicant's contention is that he was appointed as Skilled Worker on 20.2.78 and was subsequently declared quasi-permanent on 9.11.84. Meanwhile, he was appointed as Technical Assistant in the RD TDC w.e.f. 1.12.83. He

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states that he was charged with the offences under sections 420/468/471 IPC on false and concocted grounds and was placed under suspension w.e.f. 1987. The applicant's suspension was subsequently revoked on 15.3.94. The said criminal case is still pending. The applicant contends that as General Secretary of RDTDC Joint Action Committee, he had highlighted corruption and mal-practices of the various authorities, as a result of which one of the respondents¹ namely Shri S.S. Kanwar, Deputy Director was stated to have been found guilty for his mis-deeds by respondent No.2. It is alleged that Respondent No.3 was finding it difficult to extend favour to Shri Kanwar and was also in the habit of maltreating and misbehaving with his subordinates. It is stated that on 29.11.94 he threw the file over the face of one of his subordinate and the applicant had gone to Respondent No.3 and requested him not to humiliate his subordinates in such manner. It is further alleged that on 6.12.94, when the applicant's presence was necessary in the court case, he approached Respondent No.3 for permission to enable him to attend the court case which was refused, when the applicant mentioned that if he did not attend the court, an arrest warrant would be issued. Respondent No.3 used abusive and unparliamentary language. The applicant further alleges that there is no reason or justification for his being transferred to Bangalore, and this transfer has been manipulated by Respondent No.3 who had personal bias against the applicant. It is also

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contended that the transfer order is punitive; the post of Technical Assistant is not transferable; that there are persons junior to the applicant who have not been transferred; his option was never obtained; and it is neither in public interest nor in administrative exigencies.

3. I have heard Shri P.K.Bahl for the applicant and Shri E.X.Joseph for the respondents. I have also perused the Respondents' File No.9 (4)/91-Admn-III containing the notings and orders leading up to the transfer of the applicant to Bangalore.

4. There is considerable force in Shri Joseph's argument that if, as alleged by the applicant, he had highlighted the corruption and malpractices of various authorities as claimed by him resulting in Shri S.S.Kanwar being found guilty, it is he who might have ^{had} animus against the applicant, but the entire thrust of the applicant's contention is that Respondent No.3 (Shri S.S.Sharma, Regional Director) was instrumental in getting him transferred, against whom no specific reasons for bearing animus towards the applicant have been made out. In fact, Shri S.S. Kanwar, Deputy Director has not even/made one of the respondents in this O.A. Furthermore, the noting in the relevant file indicates that the applicant's transfer was ordered with the approval of Respondent No.2 i.e. Development Commissioner (Handicrafts), against whom no malafide has been alleged. Applicant's counsel Shri Bahl after being allowed to peruse the relevant noting portion in the file with the

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consent of the Respondents' counsel, sought to make out that there is something irregular in the approval of Respondent No.2 having been obtained on the file after the applicant's transfer order dated 5.12.94 had been issued, but even if the applicant had been transferred in accordance with the Respondent No.2's verbal instructions which were thereafter confirmed on the file, that does not necessarily mean that any irregularity was committed. In UOI Vs. H.N.Kirtania-JT 1989 (3)SC 131, the Hon'ble Supreme Court has held that "the transfer in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on the ground of mala fides." The applicant has not alleged any violation of statutory rules and in so far as malafidies are concerned, they have to be specifically pleaded vide Hon'ble Supreme Court's judgment in J.T. 1994(5) 298. In the present case, malafidy, if at all pleaded, is vague and without any substantial basis. The Hon'ble Supreme Court's judgment in Kartania's case has been followed in AIR 1991 SC 532 Shilpi Bose Vs. State of Bihar; J.T. 1995(2) SC 498 State of M.P. Vs. S.S.Kanwar & others and 1994(28) ATC 246 N.K.Singh Vs. UOI. In all these cases the Hon'ble Supreme Court has strongly deprecated the practice of Courts/Tribunals interfering in transfer orders which are "normal" incident of service unless there are overwhelming reasons to do so, on ground as stated above of violation of statutory rules or on

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malafide.

5. In the present case, as neither ground has been made out, I see no good reason to interfere in the matter. This application fails and is dismissed. No costs.

Arif Ali
(S.R.ADIGE)
MEMBER(A)

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