

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1486/2000

Thursday, this the 4th day of January, 2001

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

1. Joginder Singh,
S/o Late Shri Hazara Singh,
Giyse Bi, 2125,
Lodhi Road Complex,
New Delhi Applicant

(By Advocate : Shri A.K. Bajpai)

VERSUS

1. The Director General (Works)
C.P.W.D.,
Nirman Bhawan, New Delhi
2. The Superintending Engineer (Electrical
Coordn.),
C.P.W.D.,
I.P. Bhawan, New Delhi
3. Union of India
Services to be effected through its
Secretary, Ministry of Urban Development,
Government of India, Nirman Bhawan,
New Delhi Respondents

(By Advocate : Rajinder Nischal)

O R D E R (ORAL)

Heard the learned counsel on either side.
Earlier an interim order was passed in this OA on
21.8.2000 staying the transfer order dated 24.7.2000.
That order is still in force.

2. The learned counsel appearing in support of
the applicant has drawn my attention to the copy of the
order received from the Office of the Minister placed at
Annexure-I and contends that the applicant has been
transferred exclusively on the basis of this order,
which according to him, is not a competent order. He
also contends that even if the aforesaid orders have
been issued on the basis of the Minister's own
direction, the same cannot be complied with due to lack

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of competence on the part of the Minister to pass such an order. The learned counsel has also contended that in accordance with the policy applicable to work charged staff those belonging to one Unit of seniority cannot be transferred out from that Unit.

3. In the present case the applicant has been working in the Delhi Unit and, therefore, as per the aforesaid policy he could not be transferred out of Delhi. Thus the action of the Respondents can be faulted on this basis also. The learned counsel further contends that in the reply filed by the Respondents a reference has been made to certain complaints received from the Office of the Minister, but the details thereof have not been supplied by the Respondents. He has also referred to what the respondents have to say in paragraphs 4 and 5 of their reply. Reading these two paragraphs together and keeping in view what the learned counsel for the applicant has asserted, it is clear that the transfer has been made as a punitive measure without any show cause and the details of the complaint having not been disclosed nor any investigations into the complaint being shown to have been made, the aforesaid transfer order is malafide in addition to being passed as a punitive measure without following the principle of natural justice.

4. There are a cantena of judgements of Supreme Court and High Courts to the effect that transfer orders, which are malafide can be interfered with. I find that the present case provides an occasion for such interference on the ground that it is satisfactorily

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proved that the orders passed are malafide and have been so passed as a punitive measure in violation of principles of natural justice.

5. The OA accordingly succeeds. The stay order passed on 21.8.2000 is made absolute. Accordingly the applicant will stay on in his post at Delhi where he was posted prior to the impugned transfer.

(S.A.T. RIZVI)
MEMBER (A)

(pkr)