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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 2414/89  
T.A. No.

198

DATE OF DECISION 23.1.90

Shri Hukam Chand Applicant (s)

Shri S. Murlidharan, Advocate for the Applicant (s)

Versus

Union of India Respondent (s)

Mrs. Raj Kumari Chopra, Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. T.S. Oberoi, Member (Judicial ).

The Hon'ble Mr. I.K. Rasgotra, Member (Administrative).

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. To be circulated to all Benches of the Tribunal ? No

JUDGEMENT

( Delivered by Hon'ble Shri T.S.Oberoi )

The applicant, through the present OA, has sought for the cancellation of transfer order No.10(P-39)/E/111/DCEC IV/1649 dated 23.11.1989 passed by the Superintending Engineer, Delhi Central Electrical Circle No.IV, CPWD, New Delhi and also order No.Dr.RML.HED/10(7)/E-II/870 dated 24.11.1989, passed by the Executive Engineer (E), Dr.Ram Manohar Lohia Hospital, Electrical Division, CPWD, New Delhi, relieving the applicant from that Division to report to Electrical Division No.IV with immediate effect, on the ground that the said transfer orders are a sequel to his Trade Union activities being the Secretary of the Muster Roll Workers Union, and also because of unhappiness of respondents No.3 and 4, on account of his resistance to the alleged removal of certain articles from the premises of Lady Hardinge Medical College Hospital. The applicant has also alleged that his said transfer is also <sup>Generator</sup> punitive in nature as he was presently working as a ~~Generator~~ Operator in the Central Public Works Department as against his transfer as Assistant Operator vide impugned

transfer order dated 24.11.1989, referred to above, without giving him any opportunity of being heard and hence is malafide and, therefore, deserves to be set aside.


2. Notice of the application was given to the respondents on admission and interim relief. No reply was filed on behalf of the respondents. Their counsel, Mrs. Raj Kumari Chopra, however, vehemently opposed the admission of the application on several grounds, such as, the application being pre-mature as no departmental remedy has been availed of before coming by way of the present application in this Tribunal; no prima facie case is made out, as the applicant is not even a temporary employee, being still an employee on muster roll/daily wager. As regards, the alleged punitive nature of the transfer order, the learned counsel for the respondents refuted the allegations putforth by the learned counsel for the applicant stating that the applicant continues to hold the same post of Operator/E(M) in the same scale and there is no reduction in the pay scale <sup>the</sup> involved in the applicant's transfer, which is within <sup>and</sup> same division, <sup>the</sup> at the same station, within <sup>the</sup> radius of only a few kilometers. The learned counsel for the respondents by referring to Rule 12.01 and 26.01 of CPWD Manual, Vol.III pleaded that the respondents were within their competence to order applicant's transfer, he being merely a muster roll employee, and thus no infringement of his legal rights, in any way, is involved.

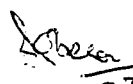
3. We have carefully considered <sup>the</sup> rival contentions, as briefly discussed above. We have also perused the contents of the application together with the relevant provisions of the CP WD Manual referred to above.

4. Admittedly, the applicant's transfer is from his present posting in Lady Hardinge Medical College Hospital to the 'Y' Shape Building, I.P. Estate, New Delhi, within the same Division of the CPWD, <sup>and</sup> as stated by Shri J.M. Paswan, Executive Engineer(E), who was present on the 8th instant, when the

arguments in the case were heard, there was no reduction in the pay scale involved in the matter of applicant's transfer to his present posting and the applicant continues to hold the same job of Operator( E&M), and that the mention of his present post as Assistant Operator, in the impugned order dated 24th November, 1989, was through an oversight. Further, in 1989(7)ATC 768, Uttar Railway Karamchari Union Vs. General Manager, Northern Railway), it was held by a Bench of this Tribunal that no interference is called for in case of a local transfer, involving least dislocation, such as, children education etc. We find that the facts and circumstances of the present case are on all fours with that of the case of the above said citation. The ruling referred to by the applicant in his application (AIR-1986 SC 584- Surinder Singh & Ors Vs. Engineer-in-Chief, CPWD and Ors) also, to our mind, does not apply to the facts and circumstances of the present case. This being merely a case of local transfer and the transfer being an incident of service, calls for no interference by us, to stall applicant's transfer, vide the impugned order.

5. As a result of the foregoing, the application is dismissed at the admission stage itself, being without any merits. We, however, make no order as to costs.

  
( I.K. Rasgotra )  
Member (A) 23/1/96

  
23.1.90.  
( T.S. Oberoi )  
Member (Judl.)