

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-2472/89

Date of decision: 26.2.1992

Shri B.B. Chaturvedi

.... Applicant

Versus

Union of India & Ors.

.... Respondents

For the applicant

.... In person

For the respondents

.... Smt. Raj Kumari Chopra,
Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *M*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

We have gone through the records of the case and have heard both the parties. The applicant, who has worked as Store Keeper in the Central Ordnance Depot, Agra, is aggrieved by the impugned order of transfer dated 27.11.1989, whereby he was transferred to Panagarh. He has alleged mala fides on the part of Lt. Col. N.K. Sondhi, Administrative Officer, Central Ordnance Depot, Agra. The Movement Order issued thereafter was not

received by the applicant, but a copy of the same was pasted on the front door of the house of the applicant. According to the movement order, he was struck off the strength of the Depot at Agra w.e.f. 30.11.1989.

2. The applicant has worked in Agra for about ten years. He is holding a transferable post. According to him, he is neither senior nor junior so that, according to the transfer policy, he ought not to have been transferred from Agra. He has alleged that being a Trade Union leader, he has incurred the wrath of Lt. Col. Sondhi and he has been transferred due to mala fides. He has prayed for quashing his posting order to Agra and for taking suitable action against the respondents for committing unfair labour practice according to Section 25 U of the Industrial Disputes Act, 1947.

3. The respondents have denied the aforesaid allegations. According to them, the transfer has been passed in the exigencies of service.

4. The legal position in matters of transfer is well settled. An employee who holds a transferable post, has no option but to abide by the orders of transfer except when the order is contrary to statutory rules or is mala fide. In case, he has a particular difficulty, he may make representation to the authority concerned and

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await its decision (vide Gujarat Electricity Board Vs. Atma Ram, 1989 (3) J.T. 20 and Union of India Vs. H.N. Kirtania, 1989 (3) SCC 445). A trade union leader does not enjoy any immunity from transfer.

5. On careful consideration of the material on record, we are of the opinion that the applicant has not substantiated the allegation of mala fides against Lt. Col. Sondhi. The impugned posting order was issued by the Officer-in-Charge, Army Ordnance Corps Records and not by Lt. Col. Sondhi. No mala fides has been alleged against the Officer-in-Charge, Army Ordnance Corps Records.

6. In case, the applicant seeks any remedy under the provisions of the Industrial Disputes Act, 1947, he should exhaust the remedies available under the said enactment before moving this Tribunal. That has not been done in the instant case.

7. In the light of the above, we see no merit in the application and the same is dismissed. The MPs filed by him are also disposed of accordingly. There will be no order as to costs.

B. N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member

P. K. Kartha
26/4/92
(P.K. Kartha)
Vice-Chairman (Judl.)