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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA 1004 of 1989

Date of decision: 20.7.89

Dr. J.C. Gaur

Applicant

Vs.

Union of India

Respondents

PRESENT

Applicant in person.

Mrs. Avnish Ahlawat, counsel for the respondents.

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by Dr. J.C. Gaur, Education Officer, Central District, Delhi Administration, against the impugned orders dated 4.5.1989 issued by the Director of Education, Delhi, transferring him as Assistant Director Education (Science).

2. The applicant returned from deputation as Educational Adviser to Delhi Police and joined as Education Officer in Zone 18, Defence Colony, on 17.8.87. According to the applicant, he showed the best results of the schools in his zone. In September, 1988, his Deputy Director went on leave and she asked his junior Mrs. N. Kamath to officiate as Deputy Director. On his representation, the Director of Education reversed the order of the Deputy Director which annoyed the Deputy Director, Mrs. Usha Menon. She manipulated his transfer from South District to Central District Daryaganj where he joined on 7.4.89. The applicant is on the verge of retirement and is scheduled to superannuate in July 1990. As per Government instructions, officers should not be transferred within two years of their retirement. Within three weeks of his taking over in the Central District, he is again being transferred to the Science Branch vide orders dated 4.5.89 (Annexure A) against the post of Asstt. Director Education (Science). This order shows malafide on the part of the respondents as the applicant is not an MSc and has no background in science. As such, he would not be able

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to function properly and this would bring humiliation to the applicant. The applicant is the seniormost Assistant Director Education and his promotion is due as Deputy Director as a Deputy Director, Shri Bahuguna, is retiring in 1989 itself.

3. The respondents in their reply have admitted that the applicant was transferred to Central Zone on 7.4.1989 and has now been transferred as Assistant Director Education (Science) on administrative grounds against a vacant post. It has been stated that out of 7 sanctioned posts of Assistant Directors of Education, 6 posts have been lying vacant and the competent authority has transferred the applicant on administrative grounds without any intention to harass or humiliate him. It has been stated that the statement of the applicant that he has no background of science is not correct. The applicant is a science graduate and also LT in science and mathematics. Besides, his work is of supervisory nature and does not involve teaching of science. There are two officers senior to the applicant and the promotion to the post of Deputy Director will be done according to rules and the interests of the applicant would not be affected in any case.

4. The learned counsel for the respondent said that the applicant has not alleged any malafide or malice against any officer of the Department either in the original application or in the rejoinder. Only during his arguments, he mentioned that the Deputy Directors, Mrs. Usha Menon and Mr. Bahuguna, were manipulating his transfer to help Mrs. N. Kamath and Mrs. Sahai respectively. None of them have been made parties to this application and therefore, this cannot be taken into account at this stage.

5. I have gone through the pleadings and the arguments in this case. Transfer being an incident of service, courts would not normally interfere in such matters, if they are in public interest or in exigencies of service. It has been claimed by the respondent that as 6 posts of Assistant Directors of Education (Science) were lying vacant, a decision was taken by the competent authority to fill one of the posts by transferring the appli-

cant as it was essential not to keep the posts vacant for a long time. The learned counsel for the respondents also said that the transfer of the applicant is not a transfer from one station to another but within Delhi and as such it does not involve any inconvenience or loss to the applicant. She said that the Education authorities should be left to decide the postings of various officers in the best interest of the Education Department as they alone are competent to assign various persons to proper posts in the interest of work. The two year principle will not apply in this case as the applicant is not being shifted out of Delhi, but remains in one of the offices of Delhi Administration itself.

6. It is a well established principle that when a transfer is done in public interest courts would not normally interfere in such transfers and as this transfer is within Delhi itself, the application is liable to be rejected.


7. The applicant has stated that he is not competent to supervise science teaching and that there are a large number of persons who are MSc and better suited to handle such a post and since he had been transferred to the Central District only in the month of April, 1989, he may not be disturbed once again. There seems to be some merit in this argument.

8. The courts would not normally go deeper into the question whether the transfer is really in public interest unless some malafide has been alleged and would not normally interfere in the order of transfer passed in public interest. As such, the application is dismissed, but the Director of Education may consider whether in view of the fact that he has been posted to the Central District only in April 1989 and that he is due to superannuate within a year and that there are ^{she} ~~more~~ qualified persons in science available, his transfer order should be reconsi-

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dered. This is, however, a matter ^{entirely} for the administration to decide and it is suggested that the Director of Education, Delhi Administration, may examine the matter and pass necessary ~~orders~~ orders. The application is disposed of accordingly. But there will be no orders to cost.

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(B.C. Mathur) 20.7.88
Vice-Chairman