

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1437 of 1988
T.A. No.

DATE OF DECISION 24.11.1989

Baldev Raj _____ Applicant (s)

M.L. Kasturi _____ Advocate for the Applicant (s)

Versus

Union of India & Others _____ Respondent (s)

Mrs. Raj Kumari Chopra _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice-Chairman.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

Shri Baldev Raj, U.D.C. in the office of the Garrison Engineer (West), Delhi Cantt, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, against impugned orders No. 39/88 dated 10.3.88 issued by the Chief Engineer, Western Command, Chandi Mandir, transferring the applicant from Delhi Zone to Bhatinda Zone.

2. The facts of this case are similar to the case in the application of Shri Harnam Singh - OA 1435 of 1988, who was also transferred under the same impugned orders. In this case also the transfer has been challenged under provision 13 of the transfer policy (Annexure IV to the application) where the longest stayees at a place should be moved first. A number of cases of UDCs (all females) have been cited who have never been posted outside Delhi for more than 22 years. According to the applicant, the classification of the tenure stations is arbitrary and discriminatory and as such the transfer of the applicant to Bhatinda Zone is illegal. It has been brought out by the applicant that in an identical case of Shri Madan Lal Gakhar - OA 1235/88 stay has been granted by this Tribunal on 8.7.88, but the respondents have rejected the representation of the applicant and transferred him to Bhatinda Zone.

3. The learned counsel for the applicant also pointed out that in the case of Shri Madan Lal Dhamija Vs. Union of India & Others - OA 1436 of 1988, decided by this Tribunal on 20.9.89 - this Tribunal has held that the transfer order in derogation of the transfer policy and has directed the respondents to reconsider the transfer order dated 10.3.88. In the light of the various grounds adduced by the applicant and after taking note of the observations made in that Judgment, the Tribunal stayed the transfer order till the matter was reconsidered.

4. I have gone through the judgement of this Tribunal in OA 1436/88 - Madan Lal Dhamija Vs. Union of India. In view of the decision in the case of Shri Madan Lal Dhamija I should have followed the same reason to do so or referred the matter to the Full Bench, but see no l in view of the clear orders of the Hon'ble Supreme Court in the following cases:

1. The Union of India & Ors. vs. H.N. Kirtania - Judgments Today 1989 (3) S.C. 131.

2. Gujarat Electricity Board & Anr. Atmaram Sungomal Poshani - Judgments Today 1989 (3) S.C. 20.

3. N.K. Maheshwari Vs. Union of India - 1989 (2) Judgments Today - S.C. 338.

In the case of H.N. Kirtania the Supreme Court held that a Central Government employee holding a transferable post was liable to be transferred from one place to the other in the country and has no legal right to insist for his posting at any place and have laid down that transfer of a public servant made on administrative grounds or 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. In the present case, there is no violation fo the statutory rules nor any malafide against the respondents has been alleged or established. In the case of Gujarat Electricity Board, the Supreme Court have held that no Government servant has any legal right for being posted at anyparticular place. He can at best make a representation to the competent authority in the case of continuing difficulty, and if the transfer is not stayed, he must carry out the transfer orders. The Supreme Court in this case have also held that transfer orders cannot be evaded merely on the ground of having

made a representation or difficulty in moving from one place to another. In the case of Shri N.K. Maheshwari, the Supreme Court has clearly laid down that guidelines are not mandatory and as such do not provide any right to the applicant if the transfer order is not according to the guidelines. In view of the clear directions of the Supreme Court, this Tribunal has no authority to allow the application on grounds of violation of guidelines. It is open to the applicant to make a representation to the competent authority bringing out his personal difficulties in moving out of Delhi Zone, but since the transfer order is in the interest of State, no relief can be provided to him by the Tribunal. In the circumstances, the application is dismissed. There will be no orders as to cost.

B.C. Mathur
24.11.88
(B.C. Mathur)
Vice-Chairman