

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA 689 of 1988

Date of decision: 16.11.1988

Shri D.D. Prashar

Applicant

Vs.

Union of India & Others

Respondents

PRESENT

Shri U.S. Chaudhary Counsel for the applicant.

Mrs. Raj Kumari Chopra Counsel for the respondents.

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

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985, by Shri D.D. Prashar, Inspector Central Excise Division, Ambala City, against the impugned order No. 91 of 1987 dated 23.4.1987 passed by the Collector (Customs) (Respondent No.4) against his transfer from Delhi to Ambala.

2. The case of the applicant is that he was initially appointed on 18.5.1979 as Inspector with the Collector of Customs and Central Excise, New Delhi. On 2.3.1987 while the applicant was working in Disposal Unit, three persons came to the Unit and asked for a T.V. set alongwith a remote control system. The applicant told them that the remote control system was not available, but they could purchase the T.V. if they so desired. They threatened the applicant saying that they would go to the Collector and see as to why the remote control system was not given to them by the applicant. The same persons returned to the Disposal Unit with the Collector who asked the applicant to give them the remote control system. The applicant explained to the Collector that the remote control system was not available. The Collector then asked the applicant to see him in his office. On the following day, the Collector threatened him that he must produce the remote control sytem from anywhere or he would not be in service. On 5.3.1987, the applicant was verbally asked by the Superintendent, Dispoal, under instructions from the Collector

to hand over charge to Shri Vidya Rattan, which was completed on 17.3.1987 and orders transferring the applicant to Ambala were passed on 24.4.1987. The applicant represented the matter to higher authorities without disclosing the action of the Collector to avoid any confrontation with his superiors. He also mentioned that his wife is working as an Assistant Teacher in a school run by the Delhi Municipal Corporation and that there were many other employees having longer stay in Delhi who should be transferred out of Delhi. He also said that transfer orders pertaining to some other persons were withdrawn by the respondents as per Annexures C and D without disclosing any reason. His representation was rejected stating that his transfer was on administrative grounds, but no grounds were mentioned (Annexure D-I to the application).

2. The respondents in their reply have stated that the Inspectors in the Collectorate of Customs & Central Excise are liable to be posted on transfer anywhere within the territorial jurisdiction of the Delhi Collectorate which includes the Union Territory of Delhi and the State of Haryana. ^{When} a gentleman wanted to purchase a T.V. set, the applicant behaved discourteously with that gentleman and the matter was reported to the Collector. The Collector himself visited the godown thereafter. At the time of general transfers of Inspectors, the applicant was transferred to Ambala on administrative grounds under the instructions of the Collector. The Collector considered the representation of the applicant, but made the following observations in the personal file of the applicant on 31.8.1987:

"For his discourteous behaviour, I had thought of suspending him. It was at the pleading of his Superintendent and Assistant Collector that he got away with mere transfer. Make it clear that he has been transferred on administrative grounds. Don't enter into fruitless exercise of finding No. of years of stay at Delhi."

It is stated that instead of telling the gentleman that the remote control was not available in a polite manner, the applicant told the gentleman that remote control was not manufactured in the Customs House. He was, therefore, transferred on administrative grounds without any malafide.

4. It has been stated by the respondents that transfer is not a justiceable matter and depends upon the administrative needs.

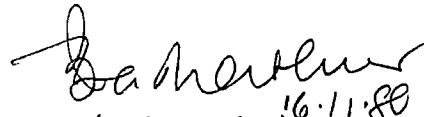
5. The applicant has denied that he showed any rudeness to any person.

6. While there can be no doubt that ordinarily the court should not interfere in matters of transfers, as the authorities concerned are in the best position to judge how to utilise the services of various officials in the best interests of the organisation. Transfers on administrative grounds or in public interest are also generally not to be interfered with, but where a doubt is raised whether there is really an administrative ground or whether the words 'on administrative grounds' is mentioned as a routine, it becomes necessary to examine the matter a little more carefully. It is a well established law that where a transfer order has been passed as a punitive measure, it is bad and liable to be struck down. Under the principles of natural justice, the guidelines to keep husband and wife at one place or transfer the juniormost or the senior person and not pick up officials for transfer arbitrarily should also normally be valid unless there are pressing administrative reasons. In this case, however, Respondent NO.4, namely, the Collector of Customs, has himself recorded on the file that for his discourteous behaviour, he had thought of suspending him, but he got away with mere transfer on the pleading of the Superintendent and the Assistant Collector. While it is true that a senior officer must make every effort to maintain the dignity of his office and not allow any discourtesy to be shown, but in

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this case no opportunity seems to have been given to the applicant to state his case and the words that "I had thought of suspending him" do show that the order of transfer is punitive in nature and, therefore, bad in law. In the circumstance, the impugned order No. 91 of 1987 dated 23.4.1987 is hereby quashed. The application is allowed, but there will be no order as to costs.


(B.C. Mathur) 16.11.88
Vice-Chairman