

(1)

Central Administrative Tribunal
Principal Bench: New Delhi.

...

Regn.No.OA-1158/90

Date of Decision: 10-8-90

Shri Munshi Mullick

... Applicant.

Vs.

Union of India & Ors.

... Respondents.

For the applicant

... Shri B.S.Mainee,
Advocate.

For the respondents

... Shri R.M.Bagai,
Advocate.

CORAM: Hon'ble Shri D.K.Agrawal, Member(Judicial)

Hon'ble Shri P.C.Jain, Member(Administrative).

JUDGEMENT

(Delivered by Hon'ble Shri D.K.Agrawal)

This application under Section 19 of the Administrative Tribunals Act, 1985 is directed against an order of transfer dated 9.8.1989 Annexure A-6 to the application whereby the applicant was transferred from Dehradun to Bhusawal in the same capacity i.e. as a Foreman in the ordnance factory. The applicant made representations against the transfer which were rejected and finally the order was given effect to by an order dated 31.5.1990. According to the order dated 31.5.90, the applicant was directed to be relieved of his duties in the afternoon on 2.6.90. As stated in the counter affidavit he has been relieved of his duties at Dehru Dun in the afternoon of 2.6.1990.

2. We have heard the learned counsel for the parties and perused the records. The learned counsel for the respondents brought to our notice that the applicant absented himself with effect from 1.6.90 and submitted an application on medical grounds along with medical certificate of a private doctor, in the office of the opposite party on 9.6.90. It was also brought to our notice that the present application was filed by the applicant on 4.6.90.

3. In our opinion sufficient grounds do not exist for quashing the transfer order, particularly in view of the fact

D.K. Agrawal

that the transfer order has already been implemented. Transfer is a necessary incident of service. It is a settled view that the transfer should not be interfered with unless the same is malafide, illegal or against the statutory rules.

The applicant has not been able to make out a case of malafide.

One of the
The only allegation in the application is that the staff in the section of the applicant was transferred without its consent. The intra-section transfer of the staff is the discretion of the authority empowered to transfer. It is not at all necessary to take the consent of each of the Section

officer in charge of
official in a section. The applicant has also alleged that his wife was posted as a Teacher in Nabha (Punjab). We do not understand how this is a valid ground for quashing the transfer order. Nabha is located at quite a distance from Dehru Dun. Therefore, this ground is also not convincing.

The applicant further alleged that he will face difficulty in the education of his children at Bhusawal. Firstly, this is not a valid ground for quashing the transfer order and secondly the necessary details as regards the age of the children or the class in which the children are studying have not been given. There is no material to substantiate the said allegation. Thus, taking into account the entire facts and circumstances of the case, we are of the opinion that this application is devoid of merits.

4. In the result, the application is dismissed without any order as to costs.

Cec
(P.C. Jain) 10/8/90
Member(A)

D.K. Agrawal
(D.K. Agrawal) 10.8.90
Member (J)