

Y CAT/7/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N E W D E L H I

O.A. No. 687/90
T.A. No.

199

DATE OF DECISION 20.7.1990.

Shri Suresh Chandra	Petitioner Applicant
Shri Sant Singh	Advocate for the Petitioner(s) Applicant
Versus	
Union of India & Others	Respondent
Shri R. M. Bagai	Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. D. K. Chakravorty, Administrative Member.

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. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgement of the Bench delivered by Hon'ble
Mr. D. K. Chakravorty, Administrative Member)

The grievance of the applicant, who is working as an Officiating Foreman in the Ordnance Factory, Dehradun, relates to his transfer from Dehradun to Avadi, Madras, by the impugned order dated 9th August, 1989.

2. The facts of the case in brief are that the applicant had initially joined the Ordnance Factory at Kanpur as Supervisor 'B' in 1962. He was promoted as Supervisor, Gr.'A' in 1963 and again as Chargeman, Grade II in 1966. He had worked at Moradnagar from 1972 to 1978, at Shahjahanpur from 1978 to 1981 and at Dehradun from 1981 to date. In 1985, he was posted from the C.M. Section to OPTO Electronic Section of the Ordnance Factory at Dehradun. In 1986, he was re-transferred from the OPTO Section to C.M. Section.

2. The applicant has contended that he is not the senior-most to be transferred and that his transfer has been ordered in violation of the transfer policy. He submitted a representation to the respondents on 31.8.1989, requesting for deferring the transfer on various grounds such as the illness and treatment of his wife at the hospitals in Delhi, the education of his daughter and other domestic circumstances. He has alleged that the respondents have accommodated some other employees at stations of their choice but a similar treatment has not been accorded to him. He has alleged that the impugned order of transfer is arbitrary, illegal and mala fide.

3. The applicant has not produced any evidence to substantiate the allegation of mala fides against the respondents. The contention of the respondents is that during 28 years of service of the applicant, he has been transferred only thrice and that too within U.P. These transfers were also consequent upon his promotion. According to them, the transfer has been ordered on account of exigencies of service. The respondents considered his representation and accommodated him to the extent possible. His request for deferring his transfer was accepted till the end of the academic session. They have also stated that medical facilities for treatment of his wife are available at Madras.

4. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The legal position in this regard has been clearly laid down by the Supreme Court in its recent decisions in Gujarat Electricity Board and Another Vs. Atma Ram Saugomal Poshani, 1989 (3) J.T. 20 and Union of

India & Others Vs. H.N. Kirtania, 1989 (3) S.C.C. 455.

5. In the case of Gujarat Electricity Board, the Supreme Court observed that transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other, is an incident of service. No Government servant has a legal right for being posted at any particular place. Transfer from one place to another, is generally a condition of service and the employee has no choice in the matter. Transfer from one place to another is necessary in public interest and efficiency in public administration. The following observations made by the Supreme Court are pertinent:-

"Whenever a public servant is transferred, he must comply with the order but if there be any genuine difficulty in proceeding on transfer, it is open to him to make a representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned public servant must carry out the order of transfer.....

There is no dispute that the respondent was holding a transferable post and under the conditions of service applicable to him, he was liable to be transferred and posted at any place within the State of Gujarat. The respondent had no legal or statutory right to insist for being posted at one particular place."

6. In Kirtania's case, the Supreme Court observed as under:-

"The respondent being a Central Government employee, held a transferable post and he was liable to be transferred from one place to the other in the country. He has no legal right to insist for his posting at Calcutta or any other place of his choice. We do not approve of the cavalier manner in which the impugned orders have been issued without considering the correct legal position. Transfer of 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 ground of mala fide. There was no good ground for interfering with respondent's transfer."

7. In view of the aforesaid judicial pronouncements, we are of the opinion that the applicant will not be entitled to the relief sought in the present application. The application is, therefore, dismissed. The parties will bear their own costs. The interim order passed on 8.5.1990 and extended thereafter, will stand vacated w.e.f. 3rd September, 1990.

D. K. Chakravorty
(D. K. Chakravorty)
Administrative Member

20/7/1990

P. K. Kartha
20/7/1990
(P. K. Kartha)
Vice-Chairman (Judl.)