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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.718/2004

New Delhi, this the 26/3 day of March, 2004

Hon'ble Shri R. K. Upadhyaya, Member (A)

Laxmi Chand Meena (UDC)
r/o A-43, Pocket-B, Mayur Vihar
Phase-II, Delhi-91

..Applicant

(By Advocate: Smt. Renu George)

Versus

1. Union of India
through its Secretary,
Govt. of India
Dept. of Tourism & Culture
Shastri Bhawan, New Delhi

2. Director General of Archives
Govt. of India
National Archives of India
Janpath, New Delhi

..Respondents

O R D E R

This application under Section 19 of the
Administrative Tribunals Act, 1985 has been filed seeking
the following reliefs:-

"1. To quash and set aside the impugned
orders as mentioned in Para-1 of O.A.
and direct the respondents not to force
the applicant to join at Jaipur on
promotion and not to make promotion
subject to transfer to Jaipur with all
consequential benefits.

2. To award costs in favour of the
applicant.

3. To pass any order or orders, which
this Hon'ble Tribunal may deem just &
equitable in the facts & circumstances of
the case."

2. By the impugned order dated 18.11.2003, the
applicant has been promoted from the post of Lower
Division Clerk to the post of Upper Division Clerk in the
National Archives of India, Record Centre, Jaipur. He

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has also been relieved from duties with instructions to take charge of Upper Division Clerk at Jaipur. The applicant vide his representation dated 10.7.2003 had alleged that he was eligible for promotion to the post of Upper Division Clerk against an ST vacancy. The learned counsel states that because of this representation, the applicant was promoted but transferred. Even after the issue of his promotion order dated 18.11.2003, he made representations which were rejected as per OM dated 23.1.2004. The applicant was also advised by this letter to join the post of Upper Division Clerk in the National Archives of India, Record Centre, Jaipur by 10.2.2004, failing which an appropriate action was to be taken against him as per rules. The learned counsel stated that on promotion, the total emoluments of the applicant has been reduced from Rs.7341/- to Rs.7235/- as per representation dated 28.11.2003 (Annexure A-4). He has also stated certain personal problems and has asked for being retained at New Delhi as Upper Division Clerk. The learned counsel also states that there are vacancies in the Department at New Delhi but the applicant is asked to join duties at Jaipur.

3. After hearing the learned counsel of the applicant and after perusal of the materials made available at the time of admission of this application, it is noticed that the present application, being devoid of any merit, deserves to be rejected at the admission stage itself. The normal practise in a Government Department is to move the person on his promotion. Therefore, if the respondents have decided to post the

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applicant on promotion to another Office, he cannot raise a grievance against that. The terms and conditions of the appointment letter dated 10.4.1992 stipulated certain conditions of service in respect of the appointment of the applicant. Item No. 3 of the conditions specifically stated that the applicant had all India transfer liability. Sometimes a transfer from one place to another does entail inconvenience to the employee but the Courts normally cannot interfere with the decisions of the Administration. The Hon'ble Supreme Court in the case of National Hydro-electric Power Corporation Limited v. Shri Bhagwan & another, 2002 (1) SLJ 86 (SC) has observed that transfer is an incidence of service and none has right to continue at one place. The Hon'ble Apex Court has further observed that unless an order of transfer is shown to be an outcome of malafide exercise of power or said to be in violation of statutory provisions prohibited such transfer, the Courts or Tribunals cannot interfere with such orders as a matter of routine as though they are the appellate authority substituting their own decision for that of management.

4. The respondents have also considered the representation of the applicant but the same has not been acceded to as is clear from the letter dated 23.1.2004. The applicant has not placed anything on record to suggest that his transfer was contrary to the transfer guidelines or Government policy on the subject. It cannot be said to be malafide act also. Even nobody has been named as a private respondent in this OA.

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5. Considering all the facts of the case, this OA is rejected at the admission stage itself without any order as to costs.

R. K. Upadhyaya

(R. K. Upadhyaya)
Member (A)

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