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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.917 OF 2004

New Delhi, this the 19th day of May, 2004

**HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER**

C.B. Narnauli,  
working as Director (Official Languagee)  
in the Ministry of Civil Aviation,  
Rajiv Gandhi Bhawan, Safdarjung Airport,  
New Delhi.

.....Applicant

(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India through The Secretary,  
Ministry of Home Affairs, Dept. of Official  
Language,  
Lok Nayak Bhawan, New Delhi.
2. The Joint Secretary,  
Department of Official Language,  
Ministry of Home Affairs, Lok Nayak Bhawan,  
Khan Market, New Delhi.
3. The Secretary,  
Ministry of Civil Aviation,  
Rajiv Gandhi Bhawan, Safdarjung Airport,  
New Delhi.
4. The Secretary,  
Ministry of Health & Family Welfare,  
Nirman Bhawan, New Delhi.

.....Respondents

(By Advocate : Ms. Promila Safaya)

**ORDER (ORAL)**

Applicant impugns the respondents order dated 7.4.2004 transferring the applicant from Ministry of Civil Aviation to Ministry of Health & Family Welfare as Director (Official Language).

2. Applicant admittedly stands at Serial No.12 of the seniority list pertains to Grade-I Directors in Central Secretariat Official Language Service which consists of a cadre of 18 Directors.



3. While working as Director in the Ministry of Civil Aviation, one Smt.Nihiarika Singh, who was working as Assistant Director, made a complaint against applicant which has yet to be probed into. By an order dated 7.4.2004, applicant has been transferred on the alleged grounds of administrative exigencies.

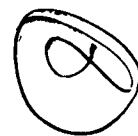
4. Learned counsel of the applicant states that it is not disputed that in the Ministry, there is no transfer policy. The transfer(s) effected in the post of Deputy Director and Assistant Director is either on own request or on requisition of the concerned Ministry. In this view of the matter, it is stated that one Shri Kamal Singh on the complaint of inefficiency has been transferred by the Ministry of Health and Family Welfare and the cadre controlling authority, i.e., Department of Official Language has decided to place the applicant in place of Shri Kamal Singh in the interest of administration. The only ground for administrative exigency is the experience of the applicant. This, according to the applicant, is punitive order where the principles of seniority and longest stayee has been ignored, irrespective of the fact that there senior and more experienced Directors were available. The applicant has been isolated which is on the basis of alleged complaint of one Smt.Nihiarika Singh which makes the transfer a punitive order actuating with legal mala fides.



5. On the other hand, respondents' learned counsel Ms. Promila Safaya produced the records pertaining to the transfer and stated that by an order dated 5.4.2004 Health Secretary, Govt. of India, Ministry of Health & Family Welfare has transferred Shri Kamal Singh, Director (Official Languages) due to his inefficiency and made a requisition for another Director in place of that person and accordingly, applicant being most experienced has been transferred in his place which is neither malafide nor against the rules.

6. Insofar as the complaint of Smt. Nihiarika Singh is concerned, it is stated that the same is nothing to do with the transfer of the applicant.

7. On careful consideration of the rival contentions of the parties, in the light of the decision of the Apex Court in the case of Shri Arvind Dattaraya Dhande Vs. State of Maharashtra & Ors., 1997(2) SCSLJ 255 wherein it had been held that if the transfer is on a complaint by way of victimisation, the same cannot be sustained and on perusal of the records, I find that one of the modes of transfer for want of policy is on the basis of requisition from the other Ministries. While doing so, the respondents should adhere to the seniority of the Directors when there are 18 such Directors and also the fact that there are more efficient and experienced Directors



than the applicant. Applicant has been isolated without any rationale and justification. The complaint of Smt. Nihiarika Singh is still to be probed into. This shows that on the basis of it, the punitive action has been taken by the respondents to transfer the applicant.

8. Although it is trite that transfer in administrative exigencies cannot be interfered in a judicial review, but once it is itself punitive and by way of victimisation as transpired from the records, the same cannot stand scrutiny of law. The administrative exigencies as put forth by the respondents have not been brought out from the records produced by the respondents' learned counsel.

9. In this view of the matter, I am of the considered view that the transfer of the applicant is an oblique exercise and not in administrative exigency. Accordingly, OA is allowed. Impugned order of transfer dated 7.4.2004 is quashed and set aside and the respondents are directed to put back to the applicant in the Ministry of Civil Aviation. No costs.

S. Raju

(SHANKER RAJU)  
JUDICIAL MEMBER

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