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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. No. 2816/92

07.12.1992

Shri Baleshwar

...Applicant

Vs.

Union of India & Ors.

...Respondents

CORAM :

Hon'ble Shri J.P. Sharma, Member (I)

For the Applicant

...Shri S.M. Hooda

For the Respondents

...Shri P.H. Ramchandani

1. Whether Reporters of local papers may be allowed to see the Judgment?

2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

The applicant, Shri Baleshwar is employed in ARC, Palam since 1.5.1987 and at present is working as JTO (Safety Equipment Worker). He has been transferred by the impugned order dt. 3.8.1992 from ARC, Palam to ARC, Sarsawa, U.P. This Sarsawa is situated about 20 Kms. off district Saharanpur in U.P. The applicant on certain grounds made a representation to the respondents dt. 11.8.1992 that the impugned transfer order be cancelled on account of the education of the children; division of parental property; settlement of parents and lastly because of his own treatment. He has also sought personal interview with the respondents, but his request for cancelling the said transfer has not been favourably accepted and he has been relieved from the present assignment on 7.11.1992. The applicant, in this application, filed on 27.10.1992 has prayed that the aforesaid impugned order dt. 3.8.1992 be quashed.

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The respondents contested the application and stated that the applicant is serving on a transferable post and since he was re-employed as JTO II (SEW), he has been posted at Palam since that time. In the offer of appointment, it was clearly mentioned that the appointment carries with it the liability to serve in any part of India. The utilisation of the services of SEW in Aircraft is partial and secondary. The main function of the trade of JTO is maintenance servicing and repair of different types of parachutes, dingis and survival kits, which are used for para jump training and fitted on certain type of Aircrafts. It is further stated that the applicant has not been transferred on whimsical and extraneous grounds to Sarsawa as stated by him. Another JTO II, SEW has been transferred to Sarsawa from Charbatia in the interest of operational necessity. The said JTO, Shri Pandey has also not been favoured with an interim suspension of the transfer order in his case, while the applicant has been accommodated by deferring his transfer order till 6.11.1992.

I have heard the learned counsel for the parties at length and have gone through the pleadings of the case. It is established from the pleadings of the parties that the applicant is serving on a post carrying an All India transfer liability. Nothing has been brought on record to show in the pleadings or during the course of arguments that the applicant is holder of non transferable post. In view of this, it cannot be said that the applicant cannot be transferred out of

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ARC, Palam to any other outstation where the services of the applicant may be desired.

The next argument advanced by the learned counsel for the applicant is that he has been transferred in the mid academic session and he has school going children. No details of the education of the children, the school or college where they are studying has been filed on record. But accepting the argument of the learned counsel, the children are reading in lower classes and further the parents of the applicant are also residing with him, it cannot, therefore, be said that the children cannot be looked after as regards their education and better living by the aged parents, who may be having more affection for their grand children. This argument also, therefore, does not justify or make out a case in favour of the applicant.

It has been further argued that the applicant is also not feeling well and is under treatment of authorised medical attendant. The disease with which the applicant has been suffering has not been disclosed and it cannot be said that if he is suffering from an ailment that cannot be treated at Sarsawa situated only 20 Kms. of ^{exbal} ~~exbal~~ town in UP, i.e. Saharanpur. Coming to the position of law, the transfer orders are made in the exigency of service and the administration is the best judge to take services of its employee where desired. There is no allegation of malafide or

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le arbitrariness or discrimination in the present case. In the recent decision of M.S. Shilpa Bose Vs. State of Bihar, reported in 1992 ^{AIR Sc} ~~Labour and Services Cases~~, p-532, it has been held that the transfer orders should not be interfered with unless they are based on malafide or are arbitrary. In the present case, there is nothing on record to justify the oral arguments advanced by the learned counsel regarding arbitrariness of the impugned order.

The learned counsel for the applicant also argued that at least a further extension of three months be given as the academic session of the school going children will come to an end by March, but the learned counsel for the respondents stated that the applicant has already been accommodated till 6.11.1992 while a person similarly situated has not been given that much of relief. It will amount to further discrimination to that employee, Shri Panday, who is similarly situated and le has not been given any ~~extension of stay~~ of transfer.

In view of the above facts and circumstances, I find that the impugned order does not call for any interference. The application is, therefore, dismissed leaving the parties to bear their own costs.

J. P. Sharma.
(J.P. SHARMA) 7.12.92
MEMBER (J)
07.12.1992