

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

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Date of Decision: 31.07.92.

OA 378/92

R.C. GUPTA

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant ... SHRI C.P. PURI.

For the Respondents ... SHRI G.R. NAYAR.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)).

The applicant in this case is Deputy Administrative Officer and was at the relevant time posted in ESI Hospital, Noida. He has been transferred on the identical post as Deputy Resional Director, ESI Office, Jaipur. This impugned order is dated 27.1.92. The learned counsel for the respondents has shown that the matter of transfer has already been considered sometimes in October, 1991 and it has been finally processed effecting 44 new entrants and 22 already serving in the department. The applicant has also assailed in this application the adverse remarks of the year 1991 communicated to him on 26.11.91. However, this relief

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regarding this adverse remarks appears to have been withdrawn with liberty to file a fresh application. The present application is only confined to ~~relief of~~ the transfer of the applicant from Noida to Jaipur. The respondents have opposed this application and filed a reply denying the averments made in the Original Application.

I have heard the learned counsel for the parties at length. The applicant was in Delhi since 1984 having given order of transfer from Bhawnagar and only in February, 1991 he has been transferred from Delhi to Noida. The wife of the applicant is also in the Central Govt. service. The contention of the learned counsel for the applicant is that this transfer order is not in the public interest or in the exigencies of the service but it is based on certain facts which amounts to an arbitrary exercise of power in a malafide manner. The learned counsel for the applicant has also referred to certain decided cases to support of the case. It is also evident from the record that one officer from Jaipur Shri S.S. Malhotra has been transferred to Delhi at his own request. His wife has also been in the same service at Delhi. After hearing the arguments of the learned counsel for the parties it transpired that the applicant before making any effective representation to the respondents against the said order or transfer, filed the present application

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immediately after 17 days on 11.2.92. He did not, therefore, avail of the departmental remedy or did not place his grievance arising out of the said transfer order ~~and~~ ^{about} the inconveniences to be caused on account of ill health, education of the children, disturbance of the family and the company of the wife etc. The learned counsel for the applicant, therefore, desired that the present application be allowed to ~~be~~ withdrawn and the respondents be directed to dispose of the representation of the applicant sympathetically on the basis of certain practice being already observed in such cases. The learned counsel for the respondents has no objection.

In view of the above facts, I do not think to adjudicate about the legality of propriety of the said impugned transfer order. The applicant in due compliance of the same in a ~~disciplined~~ manner has already taken over the charge at Jaipur. He is a Group-A Officer.

In view of the above facts and circumstances, the respondents are directed to dispose of the representation of the applicant dated 28.4.92 and if that is not available the applicant shall submit another representation with documents in support of requesting the respondents to consider his case for re-transfer to Headquarter or anywhere in Delhi.

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In the above circumstances, the application is disposed of as said above with the liberty to the applicant to assail the order based on representation, if he is still aggrieved and so advised to assail the same subject to the law of limitation. Parties are left to bear their own costs.

J. P. Sharma

(J.P. SHARMA)
MEMBER (J)
31.07.92