

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



Date of Decision: 29.4.92

OA 1014/92

KARAMBIR SINGH

... APPLICANT.

Versus

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

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

For the Applicant

...Shri B.N. Singhvi,
Counsel.

For the Respondents

...

1. Whether Reporters of the local papers may be allowed to see the judgement ? [✓]
2. To be referred to the Reporters or not ? [✓]

JUDGEMENT

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

The applicant, Junior Engineer in the CPWD, Delhi has challenged proposed transfer as per OM issued by the Deputy Director of Administration-II dated 17.3.92 (Annexure-II). The application was filed on 9.4.92 and came for hearing on 10.4.92 when the following order was passed :-

"Present: Shri B.N. Singhvi, counsel for the applicant.

Heard.

...2.

✓

5

The applicant, in this case, is a Junior Engineer, CPWD. By a memo dated 17.3.1992 (Annexure-II), the Deputy Director of Administration-II, CPWD wrote to the Superintending Engineer (COORD) Civil Circle CPWD for his transfer out of Delhi because the applicant has been posted in PWD Divn.XX for a long time. It is also said in the said letter that he had earlier also been shifted to Planning Units but every time, the order of transfer had to be cancelled either at the instance of the Senior Officers in the Ministry of Urban Development or the Hon'ble UDM.

There is a report dated 12.2.92 (Annexure-III) by the Member of Parliament to the Hon'ble Minister of Urban Development that the applicant, posted in Hot Mixed Plant, Okhla PWD Divn.20 (DA) transferred repeatedly but managed cancellation under influence or by spending huge money.

In this application, the applicant has assailed the OM dated 17.3.92. The matter has been heard at length. The learned counsel was enquired whether there is any transfer order? It has been contended that this petition is only against an administrative order issued by the Deputy Director of Administration-II to the Superintending Engineer (COORD) Civil Circle CPWD. There is not yet any order of transferring the applicant. On the query being put to the learned counsel he has again argued referring to Annexure I, II & III at page 20, 21 & 22. The learned counsel also argued that some interested persons of CPWD with the Member of Parliament, have made a plan, so the applicant be transferred out of Delhi. On the conclusion of the arguments, the learned counsel stated that Vice Chairman Hon'ble Shri S.P. Mukerji is sitting in the Division Bench and he has decided some other cases of the said department so he wants his case also to be heard by DB.

I do not think that I have any such power to place this case before a Division Bench in view of the fact that arguments have already been concluded and the order was being dictated in open court.

The file be sent to the Registrar for necessary orders of the Hon'ble Chairman."

6

2. The Hon'ble Chairman vide order dated 24.4.92 to sent the file again/me for pronouncement of the judgement. The applicant has assailed the memo which contains an extract from the notes portion of this Directorate's file of even number relating to the transfer of the applicant. The Deputy Director Administration-II SE (COORD) Civil, CPWD immediately ordered to transfer the applicant, this is an office communication. It is not made clear whether the applicant has been transferred in pursuance of this letter or not. In para-6 of the application, the applicant stated that it would be futile to make any representation and so it is evident that the applicant has not made any representation. Section 20 of the Administrative Tribunals Act, 1985 lays down that the jurisdiction of the Administrative Tribunal is barred unless other remedies are exhausted. The applicant has not yet been transferred according to his averment in this application. There is a policy matter of transferring certain Junior Engineers of CPWD who have got longer stay at Delhi. It was open to the applicant to approach the respondents to place his grievance for not transferring him but the applicant has not done so. Section 20(1) clearly lays down that Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of



all the remedies available to him under the relevant service rules as to redressal of grievance.

3. The Hon'ble Supreme Court in the case of Gujrat Electricity Board Vs. Atma Ram Sungomal, reported in 1989 (2) SCC page 610 held that the applicant has to make a representation first regarding his grievance to the administration because the transfer is professed to be made in the public or administrative interest or in exigencies of service. In the recent decision the Hon'ble Supreme Court in the case of Shilpi Bose (Mrs) And Others Vs. State of Bihar & Others, reported in 1992 SCC (L&S) page 127 held in para-4 at page 129,

"the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of malafide. A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders."

↓

8

4. In view of the above facts, the present application is dismissed on the ground of being premature and the applicant has not filed any representation before the authorities, and *stranger was filed this application.*
The application is dismissed at the admission stage
by itself.

Jonane
(J.P. SHARMA 29.4.72
MEMBER (J)