

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

Date of Decision: April 27, 92.

OA 1133/92

SHRI ILAM SINGH

... APPLICANT.

VS.

UNION OF INDIA

... RESPONDENTS.

CORAM:

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

For the Applicant ... Shri P.L. Mimroth,
Counsel.

For the Respondents ...

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 is working as Peon in the CGHS Ayurvedic Unit, Paschim Vihar and has assailed the order of transfer dated 9.1.1992, passed by the Chief Medical Officer. By this transfer order he has been posted in the Ayurvedic Unit, Nangal Raya. The learned counsel for the applicant Shri P.L. Mimroth, during the course of the arguments informed that the applicant is posted in the Ayurvedic Unit Paschim Vihar since 1987. It is also clear from the transfer order (Annexure A-1) that the Additional Director, North Zone has approved the said transfer order.

(P)

2. The applicant claimed the relief that the said transfer order dated 9.1.1992 be quashed and the applicant be allowed to work as Peon in the present place of posting.

3. I have heard the learned counsel for the applicant at length, the learned counsel has emphatically pressed that this transfer order is malafide and is passed to harass the applicant who belongs to Scheduled Caste. The designation of the applicant is a Clerk and harassment referred to in the arguments is that the applicant is made to work at two places. The applicant was well within his right to come before the Tribunal for that grievance earlier to transfer or approach to higher executive departmental authorities in that regard. Malafide means what is not bonafide. Bonafide is what is done in good faith. Good faith is what is not in bad faith. If the matter is analysed on this point, applicant has already live for five years in Paschim Vihar in Delhi itself. He has been posted in the same capacity in another Ayurvedic Unit, Nangal Raya.

4. In the case of Shilpi Bose (Mrs) Vs.

(1)

State of Bihar reported in 1992 SCC (L&S) page 127 para 4 thereof at page 129, the Hon'ble Supreme Court restricts the jurisdiction in that case of the high court and ^{re} _{by} followed the Tribunal in this case to interfere casually in the matter of transfers. The said para 4 is reproduced below:

"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."

Having given a careful consideration I do not find that any *prima-facie* case is made out for admitting this matter. The application is, therefore, dismissed at the admission stage itself.

J. P. Sharma
(J.P. SHARMA) 27.4.92

MEMBER (J)