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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O. A. NO. 56/93

DECIDED ON : 8.1.1993

Ashok Kumar Jha-II & Ors.

... Applicants

Vs.

Union of India & Ors.

... Respondents

CORAM : THE HON'BLE MR. P. C. JAIN, MEMBER (A)

Applicants through Shri Jitendra Kumar Singh, Counsel

JUDGMENT (ORAL)

Learned counsel for the applicants has been heard on admission and interim relief as also on the merits of the main prayer. There are four applicants in this O.A. under Section 19 of the Administrative Tribunals Act, 1985 and they were working as daily wagers in the Employment News, R. K. Puram, New Delhi. Their main grievance is in respect of office order dated 1.1.1993 (Annexure A-1) by which they have been transferred with immediate effect to other units in Delhi itself. Accordingly, the main prayer is that the aforesaid impugned order dated 1.1.1993 be set aside and the applicants be allowed to work in the Employment News, R. K. Puram, New Delhi. In this connection the interim prayer is that the respondents be directed to allow the applicants to work in the Employment News, R. K. Puram, New Delhi with immediate effect. The consequential prayer is for a direction to the respondents to pay to the applicants wages from 2.1.1993 onwards as they were not allowed to work in the Employment News, R. K. Puram with effect from that date. There are two other prayers as below :-

(1) for a direction to pay to the applicants Nos. 1, 2 and 3 the daily wages for the post of Clerk on which they are said to be working; and

(2) for a direction to give work to the applicants on

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Saturdays also and not to deduct the salary of Saturdays and Sundays.

The above two prayers are not consequential to the main prayer and accordingly, learned counsel for the applicants submits that these may not be considered in this O.A. but the applicants would be free to pursue the same in appropriate proceedings. Accordingly, I have considered the O.A. in respect of the grievance against the transfer order as also the prayer for payment of wages from 2.1.1993.

2. The main contention of the learned counsel for the applicants is that there is work for the applicants in the office in which they were working before the impugned transfer order was passed and that regular posts have been sanctioned for that office and if the applicants are allowed to be transferred to another office, they might be adversely affected in the matter of regularisation against the posts which have been sanctioned. It is also submitted that the impugned transfer order is arbitrary.

3. I have given careful consideration to the above submissions. It may be stated here that the applicants herein along with 22 others had filed O.A. No. 1137/92 which was decided by a Bench of this Tribunal on 18.11.1992 (Shri Diwan Singh & Ors. vs. Union of India through Secretary, Ministry of I & B and Others). The grievance of the applicants in that O.A. was that the respondents had not taken steps to create regular posts and regularise their services, and that they were being threatened with orders of termination. They had accordingly prayed that the respondents be directed to regularise their services against Group 'C' and Group 'D' posts approved by the Staff Inspection Unit of the Ministry of Finance from the respective dates of their initial appointment. In the judgment in that case the respondents were directed to continue to engage the applicants as casual labourers so long as the

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respondents need the services of casual labourers and in preference to their juniors and outsiders, and in case no vacancies exist in the Publication Division, the applicants were to be considered for engagement in other offices in the Ministry of Information and Broadcasting, depending on the availability of vacancies. The applicants were also required to be considered for regularisation in accordance with the scheme prepared as mentioned in the judgment of the Tribunal in Raj Kamal's case. The respondents were restrained from inducting fresh recruits as casual labourers through the Employment Exchange or otherwise, overlooking the preferential claims of the applicants. It is conceded by the learned counsel for the applicants that the units to which the applicants have been transferred all belong to the Publication Division. It is not the case of the applicants that by the impugned order of transfer their services are being dispensed with. The transfer is to the various units under the same division and the applicants are being continued in service in accordance with the directions of the Tribunal in the judgment in O.A.1137/92, as already referred to above. The transfer is also from one place in Delhi to another place in Delhi. Thus, the question of hardship to the low-paid employees particularly the daily wagers also does not arise. It is well settled by law that the employer is the best judge to deploy the human resources at its command and unless the transfer is malafide or in serious violation of the statutory rules, it should not be interfered with through the process of judicial review. Accordingly, on the facts and in the circumstances of the case, I find no reason for the Tribunal to interfere with the impugned transferred order dated 1.1.1993.

4. The applicants do not have a right to continue to work in the R. K. Puram office after they have been transferred from that office with immediate effect. If they did not join the new place of posting in accordance with the transfer orders and as such were not being

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given pay from 2.1.1993 they have themselves to blame. As they have no legal right to continue to work in their old office from 2.1.1993, the prayer for a direction to the respondents to pay them the wages from 2.1.1993 onwards cannot be granted.

5. In the light of the above discussion, the O.A. is devoid of merit and is accordingly dismissed at the admission stage itself. It is, however, made dear that the seniority of the applicants for purposes of regularisation shall not be adversely affected as a result of their transfer from the office of Employment News, R. K. Puram, New Delhi to new offices under the Publication Division.

(P. C. Jain)
Member (A)

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