

Reserve

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

ORIGINAL APPLICATION NO. 546 of 1996.

Allahabad; this the Eleventh day of May 2000.

CORAM:

Hon'ble Mr. S.K.I Naqvi. J.M.

Shri Mohd. Yusuf S/o Late Sri Fakur-ud-din
R/o Qr. No. B-13, Soil Conservancy Colony,
218, Kaulagarh Road, Dehradun.

(Counsel for the Applicant: Sri S. Chandra, Adv)
..... Applicant.

1. Union of India represented through the
Secretary to the Govt. of India, Ministry of
Agriculture, Krishi Bhawan, New Delhi.
2. The Director General,
Indian Council of Agriculture Research,
Krishi Bhawan, New Delhi.
3. The Sr. Administrative Officer,
Central Soil & Water Conservation Research &
Training Institute, 218, Kaulagarh Road, Dehradun.
4. Dr. J.S Samra, Director,
Central Soil & Water Conservation Research &
Training Institute, 218, Kaulagarh Road.
Dehradun

(Counsel for the Respondents: Sri N.P. Singh, Adv)

... Respondents.

O R D E R

(By Hon'ble Mr. S.K.I Naqvi. J.M)

Sri Mohd. Yusuf has come up with impugning his
transfer order dated 31st January 1996 according to
which he has been transferred from Deharadun to Research
Centre Agra.

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1. As per applicant's case he joined Central Soil & Water Conservation Research & Training Institute as Lab. Attendant in 1971, thereafter, he passed test for the Post of L.D.C. and appointed as L.D.C in June 1974 and was posted in Soil Conservation farms. Solakuin. He was subsequently promoted to the Post of Upper Division Clerk in 1983 and designated as Senior Clerk ^{and} in year 1986, He was transferred to Dehradun as Senior Clerk and was assigned the task of checking ^{and} auditing bills pertaining to Chandigarh Centre of which Dr. J.S Samra was Officer Incharge. The applicant further goes to mention that he pointed out several irregularities in the Bills of the Chandigarh Centre and thereby incurred the displeasure ^{of} for respondent No.4 and he began to entertain the feeling that the applicant was deliberately working personally against him and was leveling frivolous objections and he wrote a DO letter to Dr. Rama Mohan Rao, the then Director, on 2nd June 1993 to the effect that he was very much disturb^{ed} about the uncalled for objections raised by Finance & Accounts Section on advance bills of his Centre and suggested that the applicant ^{Mohd Yusuf} be Posted at Chandigarh, The then Director, did not accept this request. It has also been mentioned that the respondent No.4 made adverse entry in ACR of applicant which was subsequently expunged. As per the applicants case when Dr. J.S Samra assumed the charge of Director, ~~he~~ he passed the impugned order transferring applicant from Dehradun to Agra malafidely, which has been challenged in this CA.

2. The respondents have contested the case mainly on the ground that the impugned transfer order is not

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out come of any malafide, but has been passed in the public interest and the language of this impugned order goes to show that it has been passed recognising experience and administrative capabilities of the applicant. It has also been mentioned that the applicant has already joined at Agra and is continuing there. It has also been mentioned on behalf of the respondents that since applicant Sri Mohd. Yusuf was relieved from institute Head Quarter at Behradun with effect from 31st June 1996 after noon and ^{he} failed to report on duty at new place of posting i.e Agra. He could not be paid any salary from 01.02.1993 on words.

3. Heard the learned counsel for rival contesting parties and perused the record. It is not in dispute that the applicant was transferred from Solakuin to Dehradun in 1996 and ~~was transferred~~ through impugned order, the copy of which has been annexed as Annexure No.5 which is dated 31st January 1996 and thereby he was transferred after 8 years stay at Dehradun. It is also not in dispute that the post held by the applicant is a transferable post and the transfer order has been passed by the Authority, Competent to pass the order for transfer of the applicant. The only point in dispute is whether this transfer order is out of malafide or a routine order or order passed in the public interest. The applicant has alleged that because of his having ^{raised} raising objections in respect of advances and other financial irregularity being committed at Chandigarh Centre of which respondent No.4 was the incharge, he (Respondent No.4) becomes prejudicial against the applicant ~~he~~ wrote a letter against him to the then Director and also passed adverse entry in his ACR for the year 1994-95. The perusal of record and pleadings do not substantiate the allegations of malafide. The referred letter by the respondent No.4 to the then Director which is dated

02.06.1993 does not complain against applicant by name, as against it, the transfer of applicant to Chandigarh Centre was solicited so as the staff their may be in a position to learn from him about the accounts matters this may be taken as words of appreciation and not out come of any malafide, so far as referred adverse entry of 1994 is concerned it is evident from own pleading of the applicant that the same entry was expunged by the respondent No.4 and thereby the allegation of ^{malafide} misconduct does not get supported ^{in fact} by this instance.

4. The perusal of impugned order through which the applicant has been transferred from Dehradun to Agra also goes to acknowledge the experience ^{and} of the administrative capabilities of the applicant. This order has been passed in the public interest for following ^{reasons} facts as mentioned therein. (Annexure No.5

^{related} "On 14.09.95 a surprise check of Cash Book and related financial documents of the centre was conducted by the committee. In the report submitted by the Committee, very serious financial lapses and irregularities have been found. Finance & Accounts Officer has also pointed out the same in his report. Posts of AAO and Assistant are lying vacant at Agra Centre. There is no experienced administrative staff to look after the financial matters at the centre. It has, therefore, been decided to transfer one of the experienced incumbent from the headquarters. Sri Mohd. Yusuf is an experienced official, his transfer to Research Centre, Agra has been decided by the competent authority!"

^{with} from the above facts in view. I do not find any merit in the OA and the relief sought for cannot be granted except for direction in respect of payment of salary to the applicant for the month of February, March and April 1996.

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The OA is dismissed being devoid of merit, However, it is provided that respondents shall take steps for payment of salary to the applicant for the month of February, March and April 1996, if the same has not already been paid. In case of any impediment under rules in this regard, The same may be ignored taking it as a special case.

See page
Member (J)

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