

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 754 of 1998

Allahabad this the 16th day of November 1998

Hon'ble Mr. S.K. Agrawal, Member (J)

Harish Chandra Dixit, Son of Late Sri Suriya
Prasad Dixit, r/o P 8/7, N-2 Road Harjindra
Nagar, Kanpur.

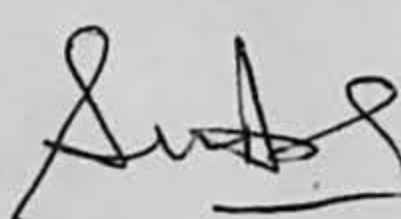
Applicant

By Advocates Sri K.C. Sinha
Sri A. Srivastava

Versus

1. Union of India through Directorate of Coord
& Pers Engineer-in-Chief's Branch, Army Head-
quarters, Kashmir House, D.H.Q. P.O. New Delhi.
2. Chief Engineer, Headquarter, Central Command,
Lucknow.
3. Command Works Engineer, Air Force, Chakeri,
Kanpur.
4. The Garrison Engineer B/R, Airforce, Chakeri,
Kanpur.

Respondents


By Advocate Sri Satish Mandhyan

O R D E R

By Hon'ble Mr. S.K.Agrawal, Member (J)

In this O.A., the applicant makes a
prayer to quash the impugned **transfer--** order

dated 07.7.98 and direct the respondents to permit the applicant to complete his tenure of 3 years as per policy letter dated 31.8.94.

2. The applicant has mainly challenged the impugned order of ~~transfer---~~ on the ground that this impugned transfer order has been issued in contravention of transfer policy dated 31.8.94, which was circulated vide letter dated 07.10.94 and posting of grade 'C' and 'D' individuals may be issued by the Chief Engineer, Command on the ground mentioned in the guidelines but the impugned order of transfer dated 07.7.98 goes to show that in the transfer order, none of the grounds have been mentioned. It is also stated that the applicant has been transferred from Furniture Yard to Revenue and Stores and the impugned order of transfer has not been issued by the competent authority to transfer the applicant. Therefore, by this O.A., the applicant makes a prayer to quash the impugned order of transfer and to give directions to the respondents to permit the applicant to complete his tenure of 3 years as per policy letter dated 31.8.94.

3. The counter-affidavit was filed by the respondents. In the counter, it is stated that impugned order of transfer has been issued by the competent authority and is only an internal arrangement. It is also denied that there has been any violation of the rules pertaining to policy of transfer and submitted that this O.A. should be dismissed outrightly with cost.

4. The rejoinder-affidavit has also been filed, reiterating the facts stated in the O.A.

5. Heard, the learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record.

6. Learned lawyer for the applicant submits that ;

1. the impugned order of transfer is against the transfer policy as the applicant did not complete the tenure of 3 years before the impugned order of transfer was issued.

2. The impugned order of transfer has not been issued by the competent authority.

7. In support of his contention he has referred the judgments;

1. Dr.Ramesh Chandra Tyagi & Others Vs. Union of India and Others 1994 Vol.I S.C.C.(L&S) paged 562.

2. State of U.P. and Others Vs. Ashok Kumar Saxena and another, Education and Service Cases Vol.I, 1998 page 484.

8. On the other hand, learned lawyer for the respondents while objecting these arguments, have submitted that the applicant's transfer was merely an internal arrangement. The case of the applicant is not based upon any malafides. The applicant has not been subjected to frequent transfers and there has not been any violation of the instructions issued in connection with the transfer

of the applicant. He has further submitted that even if there is any violation of the guide lines issued for this purpose, these guide lines do not create any legally enforceable right. In support of his contention, he has referred- 'Shilpi Bose And Others Vs. State of Bihar and Others A.I.R 1991 S.C.532 and 'Union of India Vs. S.L. Abbas 1994 S.C.C.(L&S) 320' .

9. I gave thoughtful consideration to the rival contention of both the parties and perused the whole record.

10. By impugned order of transfer, the applicant has been shifted from Furniture Yard to Revenue and Stores, which appears to be only an internal arrangement. By the impugned order of transfer, it cannot be safely said that there has been any violation of the guide lines issued for this purpose. According to the guide lines issued for this purpose, posting of Group 'C' and Group 'D' individuals can be made by C.F.S. Command on the administrative grounds and local turn over. If the applicant has been shifted from Furniture Yard to Revenue and Stores, I do not think ^{that} there is any infirmity or violation of professed norms. Moreover, shifting from Furniture Yard to Revenue and Stores before 3 years, also does not reveal the fact that any guide lines meant for transfer, has been violated. Even if for the sake of argument, it is stated that some of the guide lines issued for this purpose, have not been followed. According to the law laid down by the Hon'ble Supreme Court of India, that does not create any legal enforceable right and on that basis the order of transfer

cannot be quashed. In Shibi Bose Vs. State of Bihar and Others(supra), it was held that even if transfer orders are issued in violation of executive instructions or order, Court ordinarily should not interfere with the said order and affected parties should approach the higher authority in the department. It is for the administration to take appropriate decision in the matter of transfer on administrative grounds. In Union of India Vs. S.L. Abbas(supra), it was held that guide lines issued by the Government, do not confer upon employee any legal enforceable right. In 'Bank of India Vs. J.S. Mehta 1992(1) S.C.C.306', the Hon'ble Supreme Court held that the guide lines issue by the Government for posting of husband and wife at one station, do not give legal right to claim posting at one station, if authorities consider such posting as not feasible.

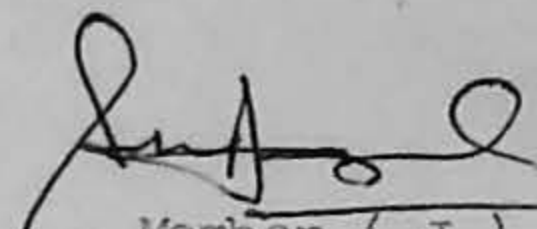
11. In the instant case, the applicant failed to establish the fact that the transfer has been issued by an authority not competent to transfer. He did not submit any documentary evidence in support of the same. Moreover, prima facie it does not appear that any rule/guide lines meant for transfer, is violated by the impugned order of transfer. There appears to be only an internal arrangement. There appears to be no malafide in issuing the order of transfer. Therefore, I am of the considered view that no interference is called for in the impugned



order of transfer.

12. I, therefore, dismiss this O.A. with
no order as to costs.

13. The interim order passed earlier, stands
vacated.


Member (J) 16/11/58

/M.M./