

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

ORIGINAL APPLICATION NO: 1263/2001.

this, the 4th day of July 2002. *Ln*

HON. MR. RAFIQ UDDIN MEMBER(J)

Jawahir son of late Sri Sarju Resident of village Baraipur Post Office-Sarnath, P.S. Sarnath, District Varanasi.

...Applicant.

(BY Advocate Shri K.K. Singh.

VERSUS

1. Union of India through the Director General Archeological Survey of India, Janpath, New Delhi.
2. Deputy Superintendent Horticulturist, Archeological Survey of India, Agra.

....Respondents.

BY Advocate Shri S.C. Dwivedi, B.H. for Shri M.C. Chaturvedi.

ORDER

BY RAFIQ UDDIN MEMBER(J)

The applicant while posted as Junior Foreman was transferred to Piparhawa, Siddharth Nagar. Vide ~~expunged~~ *Ln* order dated 4.4.2001 passed by Deputy Superintendent Horticulturist Archeological Survey of India, Agra (Respondent No. 2). The applicant challenged the aforesaid transfer order by filing O.A. NO. 809/2001 before this Tribunal which was disposed of vide order dated 19.7.2001 by issuing directions to the respondent No. 2 to

*Ln*

decide the representation of the applicant by a reasoned order. It was also provided that in case the applicant was not relieved he should be allowed to continue at Sarnath for a period of six weeks or till the order was passed on the representation which ever was earlier. The applicant submitted a representation dated 6.8.2001 before the Respondent No. 2, which has been decided by the impugned order dated 22.8.2001(Annexure-8). By the impugned order dated 22.8.2001, the representation submitted by the applicant against the transfer order, has been rejected and the applicant has been directed to join the new place of his posting at Piparhawa. The applicant has now filed the present O.A. challenging the validity of aforesaid order dated 22.8.2001 and has sought directions against the respondents to permit the applicant to resume his duty at Sarnath after treating the order as illegal ab initio.

2. I have heard the learned counsel for the parties and have also perused the pleadings on record.

3. It is needless to emphasize that the transfer order of Government Servant can be challenged only on the ground that the same has been passed in contravention of any rule or regulation or the same has been passed <sup>with</sup> ~~with~~ malafide. It is settled proposition that the transfer of an employee holding transferable post is not only an incident of service but the same is one of the conditions of his service.

A Government/has no legal right to remain posted at a particular station indefinitely.

Qy

4. In the present case it has been contended on behalf of the applicant that the applicant being a Class IV employee, ~~he~~ can not be transferred to other place situated at far off place and the transfer of the applicant is against guidelines and rules on this point. It is pointed out that the applicant was elected as Secretary of the All India Archeological Service Association on 18.12.2000, and he has been transferred merely on account of his <sup>as</sup> election ~~as~~ secretary. The applicant ~~he~~ also alleges that he has been transferred because he had approached the Respondent No. 2 alongwith other office bearers of the Association. The wife of the applicant has been suffering from long term ailment and he can not look after ~~as~~ his ailing wife at his new place of posting. The representation of the applicant has been decided by a non-speaking order.

5. Learned counsel for the applicant has not brought to my notice any rule regulation or guideline to show that the impugned order has been passed in contravention of such rule regulation or guideline. The applicant has <sup>been</sup> ~~been~~ admittedly remained posted at Sarnath w.e.f. 26.8.75 continuously. The applicant therefore can not claim to remain posted at Sarnath indefinitely. It is evident from the transfer order that the applicant has been transferred alongwith other personal in the public interest. The applicant has not alleged any malafide <sup>in</sup> ~~on~~ the part of any of the respondents. I <sup>do</sup> ~~do~~ find <sup>in</sup> ~~in~~ there is no illegality or infirmity in the transfer of the applicant and consequently, it does not warrant any interference by this Tribunal.

Rw

6. The O.A. is devoid of any merit and the same stands dismissed. No order as to costs.

*Rajendra*  
Member (J).

*R.*  
~~Lucknow~~: Dated: \_\_\_\_\_

Vidya.