

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 15th day of January, 2004.

Original Application No. 28 of 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.

Dr. Mahesh Chandra Sharma S/o Late Kailash Pati Sharma
R/o 29, Magh Vihar, Khandari, Distt. Agra.

.....Applicant

Counsel for the applicant :- Sri R.C. Gupta

V E R S U S

1. Union of India through the Secretary,
M/o Health and Family Welfare, Govt. of India,
Nirman Bhawan, New Delhi.
2. The Post Master General, Agra Region, Agra, U.P.

.....Respondents

Counsel for the respondents :- Sri S.K. Anwar

O R D E R

By Hon'ble Mr. Justice S.R. Singh, V.C.

The applicant, Senior Medical Officer, posted at Post and Telegraph Dispensary, Agra was transferred to Nagpur vide order dated 28/29.08.2003. He filed writ petition No. 45098/03 challenging the said order. The writ petition was dismissed on the grounds of alternative remedy on 01.10.2003. The applicant then filed O.A No. 1270/03 which was disposed of vide order dated 23.10.2003 with a direction to the respondent No. 1 to decide the applicant's representation by a reasoned and speaking order within two months. The Tribunal, however, directed that the applicant would not be relieved 'till the disposal of the representation', if he had not already been relieved. The applicant then made another representation on 27.10.2003 alongwith copy of the order dated 23.10.2003 disposing of

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O.A No. 1270/03. The applicant who had earlier been relieved vide order dated 10.10.2003 was relieved again vide order dated 07.11.2003 saying that the earlier relieving order was found faulty by the Tribunal. The applicant filed O.A No. 1430/03 challenging the earlier transfer order dated 28/29.08.2003 and also the order dated 31.10.2003 by which the applicant was informed that he had already been relieved. The Tribunal by its interim ^{respondent} order dated 21.11.2003 directed the second to allow the applicant to join at Agra and only then the applicant would proceed to Nagpur on permanent posting. The operation of the order dated 28/29.08.2003 came to be stayed "till the next date" vide order dated 21.11.2003. In modification of the order dated 28/29.08.2003 the respondents have now transferred the applicant to C.G.H.S, Kanpur in public interest vide impugned order dated 31.12.2003.

2. We have heard Sri R.C. Gupta, learned counsel for the applicant and Sri S.K. Anwar, learned counsel representing the respondents and perused the O.A. in.

3. It is not disputed that the applicant holds ^a ~~the~~ transferable post and that transfer is an incidence of service and judicial interference in the matter of transfer ^{is permissible} of a Government servant holding transferable post ^{have} limited grounds of malafide or ~~in~~ breach of statutory rules. The order impugned herein does not appear to have been passed in breach of statutory rules and it is not the case of the applicant that the impugned order suffers from bias or malafide. It is submitted by the learned counsel that the applicant has been transferred on a false complaint made by one Smt Lila Gupta, a colleague of the applicant.

4. Be that as it may we are not inclined to interfere

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with the impugned transfer which has been passed on consideration of the representation filed by the applicant and in partial modification of the earlier order whereby the applicant was transferred from Agra to ^{Nagpur. &} ~~Kanpur~~.

5. Sri R.C. Gupta, learned counsel for the applicant then submitted that children of the applicant are getting education at Agra and mid-academic transfer of the applicant would result ~~in~~ in destruction in study of his children. A perusal of the representation filed by the applicant would indicate that one of the daughter is getting education in L.L.B and the second one in M. Sc-I whereas third one is a student of BA III at Agra. All the daughters are major and mere fact that applicant is a widower is not ~~the~~ ^{the} ground of interference which the transfer in "public interest". We find no good ground for interference. The O.A having ^{lacks} ^{and} ^{therefore} ^{will} ^{be} ^{made} ~~latches on~~ ^{merits} is dismissed with no costs.

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Member- A.

Raj
Vice-Chairman.

/Anand/