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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO.1 of 1987.

R.K.Gandhi

applicant.

Vs.

Regional Officer,DFP Dehradun
and others.

Respondents.

HON'BLE D.S.MISRA,A.M.
HON'BLE G.S.SHARMA,J.M.

(Delivered by Hon'ble D.S.Misra)

This is an application under Section 19 of the A.T.Act XIII of 1985 again the order of transfer dated 18th December, 1986 passed by the Regional Director of Field Publicity, Government of India, Dehradun(respondent no.1) and the relieving order dated 30th Dec.1986 passed by Field Publicity Officer Bareilly,respondent no.2. On the date of admission an interim order staying the operation of the transfer order dated 18.12.86 was passed by this Bench.

2. The plaintiff's case is that he is a lower division clerk working at ~~Nainital~~ ^{Bareilly} under respondent no.2; that the applicant had made a complaint to respondent no.4 on 7.8.86(copy annexure-3) to hold an inquiry against respondent no.1 and not to transfer the applicant unless such inquiry is concluded; that on 3.9.86, a representation with respect to personal claim of staff members of the unit like OTA,Medical Bills and T.A. etc, was made by the applicant(annexure 7) and the same was forwarded on 15.9.86; that another complaint dated 17.11.86 regarding the use of Government Vehicle for family pleasure trip was sent by the applicant against respondent no.1(copy annexure-9) and the same was forwarded vide letter dated 17.11.1986; that a complaint with regard to the irregularities and waste of government funds for the auction of a condemned

LT government vehicle was brought to the notice of Secretary

Government of India (respondent no.4) by the applicant through representation dated 19.11.86(copy annexure 11) which was forwarded on 19.11.1986; that the respondent no.2 instead of removing the difficulties of the staff and meeting the complaint against him, ^{that} issued a memorandum dated 21.11.1986 threatening the applicant to shift him from Bareilly in public interest(copy annexure 13); that in pursuance of his threat spelt out in his memo mentioned above, respondent no.1 transferred the applicant from Bareilly to Uttar Kashi vide its order dated 18th December,86(copy annexure 14); that another order dated 30th December,86 has been passed by respondent no.2 for the release of the applicant on or about 6th Jan.87. The order of transfer has been challenged as being in contravention of para 2 of Policy Guide lines contained in the Government of India letter dated 31st July,78(copy annexure 1) and also because it is malafide and motivated by a personal will. The applicant has prayed that the order of transfer dated 18th December,1986 and the order of relief ^{be} dated 30.12.86 may be set aside.

3. In the reply filed on behalf of the respondents, it is stated that the complaints made by the applicant against respondent no.2 are being enquired into; that the applicant had no business to write to the Secretary, Ministry of Information and Broadcasting, New Delhi directly unless he has written to his superiors and has failed to get a relief; that the overtime allowances and T.A.Bills are sanctioned in normal course after due process and the medical bills, which were very much on the higher side were sent to the Chief Medical Officer Bareilly for verification and counter signature; that as soon as the medical bills were counter signed by the Chief Medical Officer, Bareilly, the bills were cleared and there is no deliberate delay on the part of the respondents; that the allegations regarding the use of government vehicle on family pleasure ^{be}

be trips is absolutely false and base-less and are categorically denied; that the applicant and respondent no.2 were jointly trying to create an ungenial atmosphere at Bareilly and both were trying to deprecate and bring a bad name to respondent no.1 who observed it during his inspection at Bareilly; that the applicant picked up a quarrel with Sri B.D.Sharma,Driver, and it was under these circumstances that respondent no.1 warned the applicant in public interest; that Sri B.S.Dangra L.D.C. at Uttarkashi has represented on a number of occasions for his transfer on compassionate ground to Gopeshwar District Chamoli; that since there was tension in the Bareilly unit, which was completely paralysed, it was decided to transfer the applicant and a recommendation was also made by respondent no.1 to the Director of Field Publicity, Government of India, New Delhi (respondent no.3) to transfer respondent no.2 also.

4. In the rejoinder affidavit filed on behalf of the applicant, it is stated that the order of transfer was a case of clear cut victimization and outcome of personal grudge as a result of various complaints made by the applicant against respondent no.1; that there is nothing wrong in addressing complaint to the Ministry of Information and Broadcasting New Delhi through proper channel; and respondent no.1 has not brought on record the specific public interest which was necessary for the transfer of the applicant.

5. In a supplementary counter-affidavit, filed on behalf of the respondents, it is stated that the transfer of the applicant was purely on administrative ground apart from the fact that the applicant was not pulling on properly with the local staff at Bareilly, and the Government working was suffering badly; that apart from other administrative grounds, the Jt. Director,

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Directorate of Field Publicity, Government of India had requested respondent no.1 to provide a lower division clerk at Uttarkashi which is a sensitive area being border unit; that the petitioner was relieved on 31.10.1987 due to exigencies of work at Uttarkashi; that the petitioner has given his home town Bombay in his service records and therefore, the distance of Uttarkashi from Bombay as compared with the distance from Bareilly to Bombay is not very relevant; that on account of a ban on recruitment of new hands, the staff at Uttarkashi had to be provided by making internal adjustment for providing a local LDC at Uttarkashi.

6. We have heard the arguments of the learned counsel for the parties and have carefully perused the documents on record. Learned counsel for the applicant mainly relied upon the instructions contained in the Policy Guidelines dated 31st July, 1978 issued by the Directorate of Field Publicity, Ministry of Information and Broadcasting, Government of India. According to the circular, the Regional Officer is competent to order transfer of staff other than class IV employees and Field Publicity Officer provided that a number of staff is not disturbed from the station of his posting for a period of two years in a difficult station and four years in other station. Para 11 of this Guidelines further states that transfers in exception to the Guidelines will be in order only when there are compelling administrative reasons which should be spelt out and recorded. Learned counsel for the applicant contended that the personal bias of respondent no.1 is proved by the fact that on 21.11.1986, he had issued a written warning to the applicant directing him not to address letters directly to the Secretary, Ministry of Information and Broadcasting and

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warning him that in case he fails to do so, he will be shifted from Bareilly in public interest. Learned counsel for the respondents contended that the conduct of the applicant had resulted in complete dislocation of work in the office of the Field Publicity Officer Bareilly, where the applicant was posted. We have considered the matter. On his own admission, the applicant appears to have assumed the role of a ~~social~~ worker pointing out the shortcomings of his colleagues and superiors. Respondent no.1 has admitted that the complaints made by him have been forwarded to the concerned higher authorities. We have no reason to believe that the higher authorities will not take necessary action to verify the truth of the various allegations made by the applicant against respondent no.1. It is also on record that inspite of the warning given to the applicant vide letter dated 21.1.80, the applicant ~~denied~~ ^{Continued} ~~to~~ to address the higher authorities making various allegations against respondent no.1. This conduct of the applicant discloses his attitude towards the instructions received from the higher authorities. We are of the opinion that this is in the nature of insubordination and should not be ignored. We have also considered the instructions contained in the Guidelines dated 31st July, 1978 regarding transfer of staff belonging to the category of the applicant and we are of the opinion that para 11 of the Guidelines gives wide scope to the competent authority to exercise the power of transfer in public interest. It is on the record that the applicant had been indulging in ventilating real or imaginary grievances of other members of the staff as if he had the authority to do so. The contention of the respondents that the work in the Field Publicity Office Bareilly was suffering due to cantankerous attitude of the applicant appears to be correct.

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For the reasons mentioned above, we are of the opinion that there is no merit in the application and the same is rejected without any order as to costs.

H. M.
A.M. 7.12.87

J. M.
7.12.87

J.S. 7.12.1987