

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 506 of 1992

Moti Lal

Versus

Union of India & Ors.

Hon'ble Mr. T.L.Verma, Member-J

This application under Section 19 of the Administrative Tribunal act has been filed for quashing order dated 31.3.92 and 5.3.92 whereby the applicant has been transferred. The applicant at the time of his transfer was working as In charge Training Officer at Varanasi w.e.f. 7.12.1988. He was transferred from Varanasi to Balia by order dated 5.3.1992 ( Annexure A-2) By order (Annexure A-1) all officers except the applicant transferred by order (Annexure A-2) were ordered not to move until further orders. The applicant however, was directed to report at Balia as ordered and had ~~over~~ overcharged to Shri A.C.Mishra. The applicant, thereafter filed this O.A. for quashing order of his transfer. While issuing notice to the respondents, to show cause as to why the petition be not admitted, the respondents were directed not to give effect to impugned order dated 5.3.92 and order dated 31.3.92.

2. The impugned orders have been assailed mainly on the ground that the same are arbitrary, discriminatory and against public interest.

3. The claim of the applicant has been contested by the respondents by filing Counter Reply.

4. It is now well settled that transfer of a Government servant appointed on a particular cadre of transferable post from one place to another is an ordinary incident of service and that transfer is an exigency of service and may be ordered for administrative reasons and the employer is the best judge in that regard. The Courts, however, in appropriate cases, where the transfer is against rules or is malafide, ~~cannot~~ <sup>may</sup> step in and exercise the power of judicial review.

5. It is not in dispute that the applicant has been appointed to a cadre of transferable post. No rule has been brought to my notice which may have been infringed by the impugned transfer. There is absolutely no material on record from which reasonable inference of malice in passing the impugned orders of transfer *can be drawn*

6. The learned counsel for the respondents has urged that the transfer of the applicant from Varanasi to Balia was necessitated in exigency of public ~~interest~~ service. It was stated that consequent upon the selection of Shri A.K.Mishra ITO Balia on the post of HPO, the respondent No. 3, the immediate Controlling Officer of the applicant issued order dated 5.3.92 on the direction of respondent No. 2 as an interim arrangement for taking over the additional charge of HBPTC in place of Shri A.K.Mishra who <sup>was</sup> promoted to higher rank. The transfer of the applicant to Balia in the facts and circumstances in my opinion was in the interest of administration.

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7. It may however, be pointed out that during the pendency of this OA some material changes have taken place in the factual matrix which need to be mentioned. From the copy of the telegram (Annexure A-7) from CCAIAPPARTCR Lucknow to Director Administration, it appears that proposal was made for transfer of Narayanji Tewari ITO from Varanasi to Balia. By order dated 1.10.1992 (Annexure A-8) order transferring N.G.Tewari was passed. The said Shri Tewari has already been released and reported to duty at BTC Balia vide Annexure A-9.

8. From the facts as stated above, it would appear that the post on which the applicant was transferred has not been filled by transferring Shri N.G.Tewari to Balis. The applicant continues to be at Varanasi by virtue of the interim order passed in the case. In view of the change in the scenario this O.A. appears to have become infructuous. In any view of the matter, for reasons stated above, I find that there is no merit in this application and the same deserves to be dismissed on merit. This application is accordingly dismissed. There will however, be no order as to costs.

*[Signature]*  
Member-3

Allahabad Dated: 27.6.94  
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