

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD

Original Application No. 870 of 1992

Shri M.N. Dubey Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. K. Obayya, Member (A))

The applicant who is a member of Central Labour Service (CLS) was transferred vide order dated 28.6.1992 (Annexure-1) from the post of Regional Labour Commissioner (Central) (RLC) Kanpur, as Senior Labour Officer (SLD) in the Ordnance Equipment Factory at the same place. The transfer was in the nature of shift from one office to another office within Kanpur and did not involve movement out of Kanpur. The applicant has challenged the transfer order in this application filed by him u/s. 19 of the A.T. Act, 1985.

2. According to the applicant, he was posted as R.L.C. Kanpur on 27.3.1991 but before completion of his term he is being transferred while many of his juniors are still retained as R.L.Cs. Being Senior most among R.L.Cs' he is eligible for promotion to the higher post of Deputy General Labour Commissioner, but instead of rewarding him with promotion on the basis of his meritorious and distinguished service, he is being demoted to a lower post. The applicant assails the transfer order as arbitrary, illegal, punitive, malafide and without jurisdiction.

3. The respondents in their counter have pointed out,

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that w.e.f. 3.2.1987, there was merger of groups 'A' Posts in the Central Labour Service, as a result of which, the posts of RLCs', S.L.Os' together with the Post of Deputy Director(Training) are clubbed together for purposes of seniority and further promotion. The posts of RLCs' and SLOs' are in the same grade (Rs. 3000 -4500/-). They are interchangeable and inter-transferable. It is denied by them that the post of S.L.O. is a lower post. It is also stated that through the duties and responsibilities may vary from post to post, that does not mean one post is lower to the other. The allegations of malafides, arbitrariness are denied. They have justified the transfer on the ground that it was done on administrative ground in public interest and the order was passed by Competent Authority. It is also stated that the transfer is incidence of service and the order cannot be challenged on the grounds of personal inconvenience of the employee.

4. In the rejoinder the applicant has reiterated that his transfer was malafide and that it has resulted in reduction in rank, status and responsibilities and that the said order was not passed in public interest or in exigencies of service.

5. We have heard the Counsels of the parties. We have also carefully examined the records. The learned counsel for the applicant strenuously argued that the duties and responsibilities of the posts of R.L.C. & S.L.O. are vastly different; the R.L.C. has jurisdiction over the entire state and in the heirarchical structure,

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he is head of the office responsible for administration of the department and supervision, over the labour enforcement Officers and other sub-ordinate officers. R.L.C. is also vested with quasi-judicial functions. His responsibilities include effective enforcement of labour laws and also prosecution of defaulters. On the other hand the S.L.O. has jurisdiction only in the factory since he is attached to a particular factory, and he works under the control of General Manager and does not have any powers. He is not head of the office. The learned counsel for the applicant urged that the transfer was demotion since the post of S.L.O. was a lower post. Even if the posts of R.L.C. & S.L.O. are of the same scale; this does not convey that the posts are equivalent in status. On this point he referred to the decision of the Supreme Court in Civil appeal No. 1534 (AIR. 1986 S.C. 1200) wherein the Supreme Court observed :-

" The mere circumstances that the two posts are carried on the same scale of pay is not enough. The true criterion for equivalence, therefore, is the status powers, nature of responsibility and duties attached to the two posts."

6. The learned counsel for the respondents countered this by saying that the posts of R.L.Cs' and S.L.Os' are not only in the same grade and scale of pay but also for purposes of seniority the posts are clubbed and there are no separate seniority lists of R.L.Cs' and S.L.Os. Seniority is integrated. The learned counsel for the respondents also stated that

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the transfer was made in public interest and the applicant was holding a transferrable post; and it is also the policy of the department to inter-change the positions in posting so that officers of the department gain experience in different aspects of labour welfare work. He referred to the case of N.C. Singhal Vs. Union of India (AIR 1980 SC 455) and also the case of Santikumari Vs. Regional Deputy Director (AIR 1977 S.C. 1771) wherein the Supreme Court held that transfer in the same grade from one post to the other does not call for the interference of the Courts, and also transfer made in exigencies of service or administrative reasons is not open to challenge.

7. The notification dated 3.2.1987 of the Ministry of Labour (Annexure CA I) contains the Central Labour Service Rules and Rule 3 speaks of Constitution of Central Labour Service, consisting of all those persons appointed and holding Group A posts. Schedule I indicates that Grade IV posts consist of R.L.C. (Central) S.L.O. and Deputy Director Training; From the above notification it is clear that the post of R.L.C. and S.L.O. are equivalent posts on same scale of pay and are integrated for purposes of seniority. In the seniority list of Grade IV Officers the applicant is placed at serial No. 41, though some of the seniors must have retired by now, there are still some who are seniors to the applicant and the contention that he is senior-most among the R.L.Cs' appears to be factually not correct as there is no separate seniority of R.L.Cs, but there is integrated seniority of all the officers holding Grade IV posts. Since there are seniors above the

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applicant, it can not be said that the transfer will come in the way of his promotion to the higher post. He will be eligible for promotion wherever he is whether working as R.L.C. or S.L.O. which will be considered according to record and position in the integrated seniority list. The learned counsel for the applicant pointed out about the status and powers enjoyed by the applicant as R.L.C. are being denied, Since S.L.Os are attached to a particular factory and that they do not enjoy the statutory powers under any act. They are only responsible for maintenance of welfare and attend to grievances of the workers in a particular factory. May be this is correct but it does not follow from this that the S.L.O. is a lower Post. The statutory powers are given to the authorities who are entrusted with implementation of the provisions of a particular Act. Mere exercise of statutory powers do not make them any superior or over others.

8. S.L.O. is undoubtedly incharge of welfare of the labour force and they have to deal with management in settling labour matters. This cannot be described as any less important or challenging as the real service of the Labour Service Officers is in the field of promotion of labour welfare. One may be secure and happy in the exercise of powers and wield a stick on erring employees, but an officer in the Central Labour Service should be equally happy, with his persuasive skills in getting round the employees to the labour side. Status is what is perceived by a person and more a psychological phenomenon. Some posts are respected because of the

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powers attached to it while some posts are given regard and carry large measure of acceptability of the people because of their serviceability. In our view that a particular post has status which the other posts in the same grade and cadre do not have, is a misnomer, in any case, an employee can not be choosy of the posts having joined a service, which is a composite service offering different types of posts, field posts, desk posts, posts with statutory powers, posts without such powers etc. From the record we have also noticed that many Officers working as R.L. Cs. were transferred as S.L.Os. and similarly S.L.Os transferred as R.L.C.

9. The transfer of the applicant is only a transfer from one post to the other post in the same grade., and does not involve moving out of Kanpur. The seniority of the applicant and promotional prospects are not, affected as the seniority is common for all posts included in grade IV of Group 'A' Central Labour Service and there is no separate seniority for R.L.Cs. cadre or S.L.Os cadre. In this back ground the contention of the applicant that by this transfer he is being given demotion to the lower post is ill-conceived. It can not be said being a senior officer he is unaware of equations and gradations of the posts in the department and if he has made a mark in the department while discharging various quasi-judicial functions there is no reason why he should not prove his mettle in invoking his persuasive and negotiating skills in conciliation matters with management and work for promoting the welfare of the labour committed to his care in the Ordnance Factory.

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10. In Union of India & Others Vs. H.N.Kirtania 1989 S.C.C.(L & S) 481, the Supreme Court has held that transfer of a public servant made on administrative ground or in Public interest should not be interfered with, unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on the ground of mala-fides. In Gujrat Electricity Board Vs. Atmaram Sugomal Pothani (1989-2 S.C.C. 602) it was observed by the Supreme Court, that transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other is an incident and a condition of service. The responsibility of good administration and placement of employees on objective considerations rests with the authorities. The applicant who was holding a transferable post has no vested right to claim either a particular post or particular place. In these circumstances, we do not see that any interference is called for in the impugned order. The application is devoid of any merit and accordingly it is dismissed with no order as to costs.


Member (A)


Vice-Chairman

Allahabad Dated 3rd Sep 1992.

(RKA)