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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 1285 of 1993

Allahabad this the 28th day of March 1995

Hon'ble Mr. Jasbir S. Dhaliwal, Member (J)

1. Chandra Prakash Tripathi S/o Sri Deotadin Tripathi J.T.O.(Cable), Noida, R/o W-58, Sector.12, Noida, District Gaziabad.
2. Shri Chotey Lal, S/o Sri Durga Prasad, R/o G-42, Sector-27, Noida, District-Ghaziabad.

By Advocate Shri A.K. Gaur
Versus

Applicants

1. Union of India through the Secretary, Telecommunication, Sanchar Bhawan, New Delhi.
2. Shri J.S. Khanuja, General Manager, Telecommunication, Jaina Tower, Ghaziabad.
3. Shri Ranjeet Singh, Divl. Engineer, (Phones), Noida, District Ghaziabad.

Respondents

By Advocate Shri N.B. Singh.

O R D E R

BY Hon'ble Mr. Jasbir S. Dhaliwal, Member (J)

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The two petitioners working as Junior Telecom Officer (Out door) Noida and Junior Telecom Officer (Cable), Noida have come to this Court against their orders of transfer to Modi Nagar and to Khurja respectively dated 20.8.1993. They pleaded that they had been working at Noida for the last more than 7 years to the ~~0000~~ satisfaction of their superiors and had got appreciation certificates. The respondent no.2 and 3 had joined as General Manager and ~~0000~~

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D.E. recently and they had come under the influence of the Union Office bearers, who were highly prejudiced against the applicants. The respondent no.3 had been insisting for transfer of the petitioners on the pretext that there were a large number of complaints against them and if, not transferred, they will create an impediment in the smooth working of the NOIDA Telecommunication Network. The office bearers of the Union had issued an ultimatum dated 18.8.1993 threatening to resort to work to rules incase the petitioners are not transferred by rotational transfer. It is pleaded that the impugned orders have been passed in the mid session which disturbs the school going children of the petitioners who are students of Class IX, XI and XII respectively. It is pleaded that the transfer orders are violative of departmental rules.

2. The respondents in their counter-reply have refuted all the allegations made by the petitioners. It is pleaded that the transfer orders have been issued in interest of service and on administrative grounds as good officers are required at other place also. The petitioners had remained at Noida for more than 7 years and were, thus, having longest stay. Under a circular dated 26.10.1989, a policy was declared for rotational transfer laying down that one employee should not normally be allowed to continue

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on the same post for more than 4 years. They have denied that transfers have been ordered under threat or with malafide intentions. It is co-incident that the memorandum received from the Union was also issued during the days when the transfer of the petitioners was ordered in administrative exigencies.

3 I have heard the learned counsel for the parties and carefully gone through all the averments made.

4. It is admitted case for the parties that the petitioners have been transferred to new place after their stay at Noida for a period of more than 7 years. No rules have been shown which may entitle the petitioner to remain at the same station and nothing has been brought to the notice of this Court to indicate violation of any statutory rules while passing the impugned orders. The allegations of malafide are not convincing. The petitioners allege strained relations with the office bearers of the Union but, no such instances have been mentioned which may show the existence of such a relationship. Demand by the Union for rotational transfer is only in-consonance with the declared policy of the Government. The malafides against the petitioners on part of the respondents is not made out from the material on the record. In any case the petitioners were transferred in the year

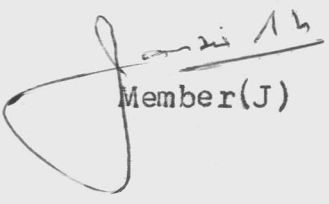
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1993 which orders were never put in ~~abeyance~~
abeyance. The petition would appear to
have become infructuous on this ground.

Since, no ground has been made out to strike
down the impugned order, this Court finds
no merit in the petition.

5. The Court intervenes in the
discretion of an employer ordering transfer of
its employee rarely and that too when violation
of statutory rules is shown or it is shown that
the transfer has been ordered on some malafide
grounds. No such facts have been shown.

6. The petition is, therefore,
dismissed for the aforesaid reasons.


Member(J)

/M.M./