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VERSUS

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Tribunal for redress.

The respondents filed Counter Affidavit and resisted the claim of the applicant on the ground that the post held by the applicant is transferable throughout the country and his transfer from Izzatnagar, Bareilly has been made on his own request.

I have heard the learned counsel for parties and perused the record.

This case was disposed of by Hon'ble Mr Justice S K Dhaon, Vice Chairman constituting a Single Member Bench at Allahabad with the observation that the Hon'ble Supreme Court has pointed out time and again in the matter of transfer, a Court of law should not be loath to interfere. In such matters, the proper remedy of the aggrieved person is to approach the higher authorities. The applicant, in view of the above observation, approached the higher authorities i.e. Indian Council of Agriculture Research, New Delhi for cancellation of his transfer, but his request was not acceded to.

The applicant has stated that he made a request for shifting him from his present assignment so that respondent No.2 may not cause any harassment to him.

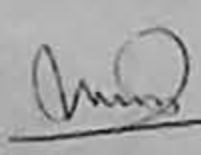
Amir

The applicant was attached as P.A. to the Director at Izzatnagar, Bareilly, who is the highest officer posted there, so if the respondent No.2 could interfere with the working of the applicant while he was attached with the highest officer, then he should not be posted with the officer lower in rank than the Director because there the respondent No.2 could easily approach to harass the applicant. The respondents, therefore, rightly took the decision to shift the applicant from Izzatnagar Bareilly to Mukteshwar, which was not a distant place. The applicant without joining at Mukteshwar made representation that the climate of the high altitude would not be favourable to his health, therefore, on his own request his transfer was cancelled and from Mukteshwar he was directed to be posted at Calcutta. The applicant made a request to the Director of the Institute vide letter (Annexure A-3) for his posting with the other entitled officer. It is said that he never made a request that he should be posted outside Izzatnagar, Bareilly. In the letter it is never said that his posting should be considered locally at Izzatnagar. It is immaterial whether he made request for outside posting. In the transfer order (Annexure A-7)

[Signature]

not
it is ~~is~~ mentioned that the transfer of the applicant
is made on his own request rather the applicant was
transferred from Izzatnagar Bareilly along with the post
to Calcutta which ~~is~~ clearly shows that the transfer order
was passed in administrative exigencies. The transfer
order was passed by the Director posted at Izzatnagar
Bareilly and no malafides ^{or} is alleged or proved against
him. The transfer order has also not been passed in
violation of any statutory provisions. The learned counsel
for the applicant has drawn my attention towards
Annexures A-9 and A-10 in which the policy decision was
taken that Groups C and D employees who were normally
locally deputed should not be transferred outside. The
applicant is not a locally recruited man as he belongs to
Bangalore where he was posted and from there he was transferred
to Izzatnagar, Bareilly. In reply, the learned counsel
for the respondent has cited case law 1993 - Labour And
Industrial Cases - 89 (Supreme Court) : Union of India
versus N.P.Thomas in which it has been clearly observed
that :

" According to the appellants, the Tribunal had
exceeded its jurisdiction by interfering in the



normal orders of transfer and posting on promotion of a Government servant and that the Tribunal was not justified in quashing the order of transfer especially when an officer of Group 'B' to the Telecom Commission have got a liability for service all over India. In support of their contentions, two decisions were relied upon : those being (1) Union of India v. H.N. Kirtania, (1989) 3 SCC 447 : (1989 Lab IC 1929) and (2) Shilpi Bose (Mrs.) v. State of Bihar, 1991 Supp (2) SCC 659 : (1991 Lab IC 360).

In H.N. Kirtania's case (1989 Lab IC 1929), it has been held that when the transfer order is legal and not vitiated by any unfairness and mala fide the Tribunal had no jurisdiction in issuing directions.

In Shilpi Bose's case (1991 Lab IC 360), the Court observed thus (para 4) :

" In our opinion, the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. "

In view of the above discussions I find that



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the case of the applicant is devoid of merit and the
application is hereby dismissed with no order as to
cost.


MEMBER-J

DATED: ALLAHABAD: August 10th, 1993.
(VKS-PS)
