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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Dated: 23.1.95

Original Application No: 1804 of 1993

H.N.Pandey, S/O Shri B.N.Pandey  
R/O Railway Quarter 19 DE Karchhana,  
Working as Permanent Way Mistry Under  
P.W.I./ Northern Railway,  
Meja Road, District, Allahabad.

.... .... Applicant.

By Advocate Shri P.K.Kashyap

Versus

The Union of India & Ors.

.... .... Respondents.

By Advocate Shri J.N.Singh

C O R A M

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

O R D E R

The subject matter of challenge in this  
O.A. is order dated 12.10.1993 whereby the applicant  
has been transferred from Karchhana to Chunar.

2. The applicant, at the relevant time, was  
employed as Permanent Way Mistry in Allahabad  
Division of the Northern Railway and was posted  
under the Control of Permanent Way Inspector,  
Northern Railway, Meza Road. In his capacity, as  
such he was given possession of Quarter No. 19 DE  
at Karchanna by the then P.W.I. As he was the only  
eligible  
employee/for allotment of Type II Gr. at Karchanna,  
he applied for formal allotment of the same on

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12.10.1991 followed by a reminder dated 24.12.1991. Shri A.K.Kholi, however, did not issue a formal order of allotment of the aforesaid quarter in the name of the applicant and directed him to vacate the same vide letter No. E/Qr/93 dated 2nd February, 1993. The applicant, therefore, filed O.A. No. 389/1993 challenging the correctness of the said order. This Tribunal, by interim order dated 31.3.1993 restrained the respondents from evicting the applicant from the said quarter. It is alleged that the respondents have now transferred the applicant ~~xxxxxxxx~~ from Karchanna to Chunar with a view to nullifying the effect of the stay order passed by this Tribunal in O.A. No. 389/93. Hence, this application for quashing the impugned order of transfer dated 12.10.1993 on the ground that the same is arbitrary, illegal and malafide.

3. The respondents have resisted the claim of the applicant. In the Written Statement filed on behalf of the respondents, the allegation of malafide has been denied and it has been stated that the transfer of the applicant has been made in public interest.

4. I have heard the learned counsel for the parties and perused the record. It is well settled that transfer of a public servant on a transferable post is an exigency of service and can be made in

public interest. The Courts/Tribunals, as held by the Supreme in Shilpi Boses' case, reported in 1992 SCC (L&S) page 127, should not interfere with the transfer order which is made in public interest and for administrative reasons unless the same is made in violation of mandatory rules or on the ground of malafide.

5. The learned counsel for the applicant has urged that the impugned transfer order is malafide inasmuch as the same has been made to nullify the stay order passed by the ~~respondents~~ Tribunal restraining them from evicting the applicant from Qr. No. 19 DE at Karchanna, ~~xxxxxxxxxx xix xix~~ ~~xxxxxxxxxx~~. Since, the correctness or otherwise of the order asking the applicant to vacate the said quarter is subject matter of dispute in D.A. No. 389/93, it will not be appropriate for me to make any observation in that regard in these proceedings. However, on careful examination of the record, I find that there is absolutely no material on the record on the basis of which inference of malafide as suggested by learned counsel for the applicant can be inferred.

6. There is no dispute that the applicant is on a transferable post and the rules governing the condition of service of the applicant do not provide that he will not be subject to transfer from one place to another. The competence of the

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authority who passed the impugned order of transfer also, has not been questioned. It would thus appear that neither the impugned transfer order is assailable on the ground of its being in violation of mandatory rules nor the competence of the authority transferring his is in question.

7. In view of the above, and having regard to the fact that a Government servant holding a transferable post, has no vested right to remain posted at one place, I find no merit in this application and the same is accordingly dismissed leaving the parties to bear their own costs.

  
Member-J

/jw/