

Reserved.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH,
ALLAHABAD.

Dated This the 5th May - 1997.

Hon'ble Mr.D.S.Baweja, A.M.

ORIGINAL APPLICATION NO: 153 OF 1993.

S.N.Singh son of Sri Chandrej Singh,
Resident of village: Kharchalpur, post
office: Kabulpur, Tehsil: and district:
Jaunpur. .. Applicant.

(C/A Sri N.L.Srivastava.)

V E R S U S:

1. Union of India, through Development
Commissioner (Handicrafts) Ministry of
Textiles, West Block VII, R.K.Puram,
New Delhi.
2. Deputy Director, Field Administrative
Cell, Varanasi. Office of the Development
Commissioner (Handicrafts).
3. Director, Centre Region,
office of the
Development Commissioner (Handicrafts),
46/3, Gokhley Bihar Marg,
Lucknow.
4. Assistant Director, Carpet Weaving-
cum-Service Centre, Rajpura, Bhadohi,
District: Jaunpur.

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Respondents.

(C/R: Sri Amit Asthalekar.)

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ORDER.

By: Hon'ble Mr D.S.Baweja, A.M.

Applicant has prayed for quashing the transfer orders dated 16.3.1992 and 31.1.1992 with the direction to the respondents to allow the applicant to continue at the present place of posting.

2. Applicant was appointed as a Chowkidar. He was posted at the time of filing this application at Carpet Weaving Training Centre, Lakhouwa, district Jaunpur in the U.P.Region (presently located at Rasaina, Jaunpur). Vide Order dated 31.1.1992 passed by respondent No2, the Deputy Director Field Administration Cell, Varanasi, it was directed that the Carpet Weaver's Training Centre at Jaunpur is shifted to Madhya Pradesh and the staff members of the Centre also stand transferred including the applicant. Vide Order dated 16.3.1992, it is provided that the applicant stands transferred to Madhya Pradesh from 17.3.1992. Being aggrieved, the applicant has filed this application on 29.1.1993.

3. The applicant has challenged the transfer orders on two fronts. The first ground is that the applicant was recruited for U.P.Region and therefore, he could not be transferred out of the U.P. Region. The other ground of challenging the transfer is that ~~the centre~~ as per policy laid down vide letter dated 13.3.1990, the transfer of the staff is dependent on the shifting of the centre. Since the Carpet Weaver's Training Centre at Lakhouwa, district Jaunpur (presently located at Rasaina district Jaunpur) is still not shifted to Madhya Pradesh, ~~and thus~~ the transfer of the applicant is against the policy instructions. In this connection, the applicant seeks the

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support of the decision dated 13.6.1992 in O.A. No: 482/92 " S.C.Tiwari V/s Union of India and Ors" of this Bench wherein the impugned order dated 16.3.1992 was challenged. It is also alleged that the transfer order is also not passed by the Competent authority.

4. Respondents have opposed the application through Counter affidavit. Respondents have submitted that the office of the Development Commissioner (Handicrafts) is functioning as a Central Govt. Office/ Department Under the Ministry of Textiles having its offices - all over India. Initially, the Carpet Weaving Centres were established in the eastern part of Uttar Pradesh but after having achieved a saturation point, the training in this Zone, the training centres are being shifted to the other needed places. In view of this situation, the claim of the applicant that he was appointed in Uttar Pradesh region ^{only & misconceived} and the applicant is liable to be transferred anywhere in India. As per policy laid down, it has been decided to shift the Carpet Weaving Training Lakhauwa, Jaunpur (presently located at Raṛsaina, Jaunpur) to the state of Madhya Pradesh by the Competent Authority. The claim of the applicant that the Centre at Lakhauwa is still functioning and is not shifted to Madhya Pradesh is not tenable. Only some extra goods have been dumped at Raṛsaina district Jaunpur. The centre has already been shifted and the applicant alongwith other staff have already joined at their place of posting on 3.4.1992. In view of this, the present application has become infructuous. Further this controversy has already been settled by the decision in O.A.No. 25/93 " A.K. Srivastava. V/S: Union of India.", wherein the same plea had been raised relying on the judgement in the case of S.C.Tiwari V/S Union of India. In view of these facts, the respondents plead that the application is devoid of merit and the same deserves to be dismissed. (C)

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5. Applicant has not filed any rejoinder reply. At the time of hearing, the learned counsel of the applicant made a statement that he does not intend to file any rejoinder affidavit. The applicant has ~~since~~ admitted of having joined ^{on} ~~the~~ transfer to Madhya Pradesh. The learned Counsel for the applicant, ^{however} ~~averted~~ that the applicant is still interested to come back to the U. P Zone and therefore, the application has not become infructuous. He maintained that the transfer order is illegal and deserves to be quashed.

6. We have heard Sri N.K.Srivastava, learned counsel for the applicant and Sri Amit Asthalekar, the learned Counsel for the respondents. We have given careful consideration to the materials placed on record and the arguments advanced during the hearing.

7. As brought out earlier, the applicant has challenged the transfer on two distinct grounds. One of the ground of challenge of transfer order is on the plea that the applicant was recruited for U.P. region and as such, he could not be transferred outside U.P.region. The applicant has not brought on the record the appointment Order and the conditions of service in support of his claim that he was appointed only for the U.P. region. In fact, the other ground raised by the applicant negates this submission of the applicant. Respondents have submitted that the Carpet Weaving Training Centres are under the Development Commissioner (Handicrafts), who runs these centres all over the country and therefore, the staff posted in these Training Centres are liable to be transferred anywhere in India. This has not been denied by the applicant. Infact, in paragraph 4(6) of the application, the applicant while

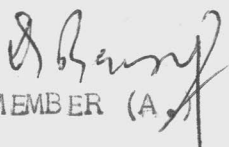
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extracting the policy instructions issued vide letter dated 13.3.1990 has averred that ^{no} ~~20~~ Centres ^{should} ~~are~~ normally functioning for more than 5 consecutive sessions at one place. ^{and} ~~As~~ a policy, the Centre should be shifted to new place alongwith the staff and equipments. This clearly indicates that the staff of the Training Centres could be shifted anywhere depending upon the requirement. The applicant's contention ^{that} ~~is that~~ he was appointed for the U.P. region is ^{thus} in contradiction to his own averments. This contention has therefore no merit.

8. The other ground of the challenge is that the Centre had not yet ^{been} shifted and therefore, transfer could not be effected in terms of policy instructions. This ground is also not tenable now. The applicant has since carried out the transfer order and has joined at the new place where the centre has been shifted in Madhya Pradesh. Judgement in O.A.No. 412/92 Dt. 23.6.92 is ^{also} of no help to the applicant's case. In this O.A. it was held that the applicant is not to be transferred without shifting the Centre. This ground of the applicant ^{on the facts of the present case} ~~though raised by him~~ does not survive as the Centre has been shifted and the applicant has joined the new place.

9. In consideration of the above facts, I am unable to find any illegality in the transfer order and the application is accordingly dismissed with no order as to costs.


MEMBER (A.)