

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 27th day of November 2000.

Original Application no. 663 of 1999.

Hon'ble Mr. S. Dayal, Administrative Member

Dr. S.R.P. Updhayaya, Education Officer,
R/o 14, Hargobind Nagar,
(Behind Vansal Marble)
Pilibhit Road,
Bareilly (U.P.)
also at presently at 2/89 Kotla House
Khandari Crossing, Agra U.P.

... Applicant

In person

Versus

1. Ministry of Labour, through its Secretary,
Shram Shakti Bhawan Rafi Marg,
NEW DELHI.
2. Central Board for Workers Education
through its Director
Near WRCE Gate, North Amba Zakhari Road
Nagpur.
3. Central Board for workers Education
Through its Regional Director
Paradise 24 A, Model Town near
Sport Stadium Bareilly.
4. Central Board for Worker Education,
through its Regional Director,
2/89 Kotla House, Khandari Crossing,
Civil Lines,
Agra.
5. Central Board for Workers Education,
through its Zonal Director,
Building Centre, Sarai Kalam Khan,
East Nizamuddin,
New Delhi.

... Respondents

C/Rs Shri D.S. Shukla

...2/-

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O R D E R (Oral)

Hon'ble Mr. S. Dayal, Member-A.

The applicant has filed this OA under section 19 of the A.T. Act, 1985, for setting aside the order of transfer made on 19.4.99 from Agra to Vishakapatnam. The applicant has also sought payment of Rs. 85,000/- relating to transfer from [✓]the period between 1.5.97 to 15.10.97 with 18% interest.

2. The case of the applicant is that his transfer is malafide and that his payment regarding his transfer from Bareilly to Agra has been withheld. The applicant has claimed that his transfer is malafide as it was made from Hindi to non Hindi region where he would not perform his duties. The applicant has not given any detail [✓]of his claim of Rs. 85,000/-, but states that he had been heard by Joint Secretary, Ministry of Labour on 15.10.97 and was given assurance that he shall be paid Rs. 85,000/- as per his entitlement at the time of transfer.

3. Arguments of applicant in person and Shri D.S. Shukla, learned counsel for the respondents have been heard.

4. It is settled law that transfer can be challenged on the ground of malafide or violation of any statutory provisions. The applicant states that Education Officer are recruited of different language groups and are to work in the same area where the language is spoken. If

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they are transferred out side this area, such transfers cannot be considered to be in public interest. He has also drawn attention to his order of appointment, in which it has not been stated that he can be transferred from one region to another. ² ~~As the condition of transfer does not concede.~~ However, that clause VI of the appointment order reads as follows :-

"Other conditions of service shall be governed by the relevant rules and orders of the CBWE as may be amended from time to time."

It states that relevant rules and order of CBWE could be applicable, but he is not aware of any order of CBWE regarding inter-regional transfer.

5. The respondents have controverted this averment of the applicant and have stated that Education Officer are not appointed against post¹ in Hindi language ^{region} ~~reason~~ ² and is transferrable from one region to another.

6. Learned counsel for the respondents has drawn attention to annexure CA 4 which is a letter from Regional Director Vishakapatnam to the Director CBWE, in which the demand has been made for posting an Education Officer knowing Hindi language on the ground that a large number of workers from Hindi speaking area are working in Vishakapatnam and there was no one available staff to educate these workers.

7. All though the applicant has alleged ^{malice} ² on the part of the respondents, yet he has not impleaded any


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respondents by name, who would be bearing malice to him, in the array of the respondents. Besides the reasons mentioned by the applicant for malice on the part of the respondents has also been denied in the CA.

8. As regards the claim of the applicant for payment of Rs. 85,000/-. The respondents have disputed the amount ~~sixth~~ as well as claim of the applicant and that he was orally assured by the Joint Secretary, Ministry of Labour for such appointment. The applicant has not impleaded the Joint Secretary, Ministry of Labour as one of the respondents in this OA.

9. Under the circumstances, I find no merit in the O.A. and the same is dismissed lacking merit, subject to the stipulation that the applicant may make his claim as per rules for arrears, if any, separately to the department which shall be considered by them in accordance with law.

10. There shall be no order as to costs.


Member-A

/pc/