

Transfereed (No)

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 13 of 1990
~~XXXX~~No.

DATE OF DECISION 5.2.1992

Shri Bhikha Amarsinh Purbia Petitioner

~~XXXX~~ Petitioner in Person Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt

: Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

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Shri Bhikha Amarsinh Purbia

: Applicant

VS.

Union of India & Ors.

: Respondents

(Advocate : Shri B.R. Kyada)

O R A L - J U D G E M E N T

O.A.No. 13 of 1990

Date : 5.2.1992

Per : Hon'ble Shri R.C. Bhatt

: Member (J)

The applicant is absent. Shri B.R. Kyada, learned advocate for the respondents present. This matter is heard today even though the applicant is absent because it is a matter of transfer. The matter is decided on merits having regard to the documents on record.

2. The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985, challenging his transfer as Junior Clerk, produced at annexure A/1, dated 27.12.1989 by the respondents transferring him from Okha to Mehsana on his existing scale and pay on administrative grounds and he was posted at LF against existing post. The undisputed facts are that the applicant was, at the time of transfer, serving as Junior Clerk on regular post at Okha. The case of the applicant is that his children are studying in Vth and VIIIth Standard respectively, that he belongs to Schedule Caste and the

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respondents have not followed legal procedure before his transfer. He has produced at annexure A/2 the representation made by him to the respondents on 6.1.1990, followed by another representation dated 10.1.1990, and according to him no reply was given to him. It is alleged by the applicant that the so called transfer order is equal to death penalty to him, and has prayed for the transfer order to be quashed.

3. The respondents have filed detailed reply contending that the transfer of the applicant was made in the interest of administration looking to the requirement of the work load at the station where the applicant was transferred. It is contended that the transfer is a condition of service. The respondents have further contended that the respondents had by letter dated 12.1.1990 conveyed to the applicant that the applicant's request to cancel the transfer order had been regretted by the competent authority. It is contended that the copy of the reply, annexure R/1 dated 12.1.1990, shows that his representation[s] were considered. The respondents have also contended that the transfer of the applicant is not made to harrass him nor was it made on social or community basis but purely on administration interest. It is also contended that the applicant picks up quarrel with all his superiors and co-workers, as appears from the letter, annexure R/2, dated 13.12.1989

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4. The learned advocate for the respondents submits that the transfer order is carried out and the applicant has resumed duty on 17.3.1990 at Mehsana.


5. So far the question of transfer is concerned, it is not in dispute that the applicant is in a transferable job. The applicant has not shown any ~~transfer~~ rules that a Junior Clerk belonging to Schedule Caste cannot be transferred even on administrative grounds. ~~On this point~~ there is a decision of the Principal Bench, New Delhi of Central Administrative Tribunal in Ramjilal Chauhan Vs. U.O.I. & Ors. reported in All India Service Law Journal 1991, Volume I, page 28. It is held in this decision that transfer is only incident of service and not penalty and the Tribunal found no absolute restriction in transferring Schedule Caste/Schedule Tribe if the transfer was on administrative ground. It is also held in the decision in Gujarat Electricity Board Vs, Atmaram Sungamel, AIR 1989 SC 1433 pg. 393, and in case of Mrs Shilpi Bose Vs. State of Bihar, AIR 1991 SC pg. 532, that the court cannot interfere with transfer orders which are made in public interest and for administrative reasons, unless the transfer orders are made in violation of any mandatory statutory rules or on the ground of malafide. In the instant case, no malafide are alleged, much less proved by the applicant nor it is shown that his transfer was in violation of any mandatory statutory rules.

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6. Having considered all the averments^u made in the application and documents produced with the application, reply of the respondents and documents produced by the respondents, and having considered the legal position in view of the judgement^u discussed above, I hold that the applicant has no case. Hence the result is that the application shall be dismissed.

O R D E R

The application is dismissed with
no order as to costs.


(R.C. BHATT)
Member (J)

*Ani.