

Transferred (No)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No.393/91

~~EX-NO~~

DATE OF DECISION 24.1.1992

Shri Gulabshanker Premasukh, Petitioner

Mr. Jagdish S. Yadav Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. 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 ? *Yes*
2. To be referred to the Reporter or not ? *X*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *X*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *X*

Shri Gulabshanker Prem Sukh,  
Quarter No.176/D,  
Gandhidham Railway Colony,  
KUTCH.

...Applicant.

( Advocate : Mr.Jagdish S.Yadav )

Versus

1. Union of India,  
(Notice to be served through  
the General Manager,  
Western Railway,  
Churchgate,  
Bombay - 400 020.)
2. Station Superintendent,  
Gandhidham Station,  
Gandhidham.
3. Divisional Railway Manager,  
Western Railway,  
Ajmer.

4. Divisional Mechanical Engineer (Estt).,  
Ajmer.

...Respondents.

( Advocate : Mr.B.R.Kyada )

J U D G M E N T

O.A. NO. 393 OF 1991.

Date : 24.1.1992

Per : Hon'ble Mr.R.C.Bhatt : Judicial Member

This application under Section 19 of the Administrative Tribunals Act, 1985, is filed by the applicant Senior Artisen Khalasi, serving at Gandhidham, challenging the impugned order of transfer, annexure-A/1 dated 13th November, 1991, passed by the respondent No.4, transferring the applicant to Phulera, and further praying to quash and set aside the order of transfer and to restore the applicant with all consequential benefits at Gandhidham. The grounds on which this impugned order-Annexure-A/ is challenged

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are that the said order is malafide and with ulterior motive, violative of the policies of the respondents and it amounts to victimisation. The applicant has attacked the impugned order of transfer on the grounds 'A' to 'G', mentioned in the application. The respondents have filed the reply denying the allegations made by the applicant. The respondents have denied that the order of transfer is either bad, illegal, arbitrary, or malafide or made with any ulterior motive as alleged by the applicant.

2. The applicant has mentioned in ground 'A', that the applicant had filed earlier O.A./320/91, along with M.A.No.309/91, challenging the order of transfer of the applicant and this Tribunal by its judgment dated 29th August, 1991, had allowed the application of the applicant and therefore, it is not open for the respondents to serve upon the applicant the same order which was challenged in the earlier application and therefore, the impugned order of transfer dated 14th August, 1991, is nonest, illegal, bad and is without any authority of law and requires to be set aside. It is pertinent to note that the impugned order of transfer, Annexure-A/1, ~~under~~ challenge is not dated 14th August, 1991, but is dated 13th November, 1991, admittedly served on the applicant on 15th November, 1991. The earlier O.A./320/91, is decided by this Tribunal on 29th August, 1991, produced at Annexure-A/3, by the applicant. The said order shows very clearly that as no order of transfer was served on the applicant and what was served was a letter dated 21st August, 1991, which was an order of relieving him,

on transfer and hence for want of service on the applicant of order of transfer the O.A. was allowed on the ground that the intimation order served on the applicant could not be a substitute of a regular order of transfer. Thereafter, the applicant filed O.A./329/91, challenging the order of transfer dated 14th August, 1991, and it was held by this Tribunal in its judgment dated 9th October, 1991, that the respondents could not act on the same transfer order dated 12/14th August, 1991, when the applicant has gone to resume the duties at Gandhidham in pursuance of the Judgment of the Tribunal of O.A./320/91. As the said transfer order dated 12/14th August, 1991, served by the respondents on the applicant had become nonest and unenforceable therefore, the same was quashed and set aside. Therefore, it is not the transfer order dated 12/14th August, 1991, which is under challenge in this O.A., but it is a transfer order dated 13th November, 1991, which is under challenge, and therefore, there is no substance in ground NO. 1, of the application. The learned advocate for the applicant submitted that this is the third O.A., which is filed by the applicant on the ground of transfer and therefore, it amounts to a repeated transfer which should be held as illegal and unreasonable. This submission cannot be accepted because as observed above the first O.A./320/91, was allowed on the ground that the transfer order was not served on the applicant and the second O.A./320/91, was allowed on the ground that the transfer order dated 12/14th August, 1991, has



become nonest, therefore, this order cannot be considered as repeated transfer.

3. The applicant has mentioned in Ground -'B', of his application that the order of transfer is illegal, bad and violative of its own policy inasmuch as 4th Class employee or low paid employees are not to be transferred unless there being special reason. Learned advocate for the applicant has submitted that the applicant is sought to be transferred from Gandhidham to Phulera, which is 600 to 700 Kms. away, and submitted that there is no special reason, whatsoever, justifying abnormal transfer of the applicant. The respondents in the reply have contended that the transfer order has been issued in the interest of justice and the applicant has been given all the facilities of the transfer and it is not illegal or arbitrary or malafide. It is also mentioned by the respondents that the applicant has been serving at the very station for the last twenty years and wants to retire from the same station after eight years, but the department wants his services, at the another place in the interest of Administration so that his ability can be used in the other station and every right of the applicant has been protected and he is entitled to all the benefits under the Rules. The applicant is governed by the service conditions of the Railway Establishment Manual, and he is a permanent Class IV employee serving at the same Station since-last twenty years. Learned advocate for the respondents submitted that the transfer is made by the competent authority and that too within the same Division, and the applicant is serving in a transferable

job and that the transfer is neither reasonable, illegal nor under the Rule or policy. Learned advocate for the applicant relying on the decision in B.Vardha Rao Versus State of Karnataka and others, A.I.R. 1986-Supreme Court-1955, submitted that the transfer of the applicant is neither reasonable nor fair and he drew my attention to para-6 of the judgment. It is held by the Hon'ble Supreme Court in this decision that -

"One cannot but deprecate that frequent, unscheduled and unreasonable transfers can uproot a family, cause irreparable harm to a Government servant and drive him to desperation. It disrupts the education of his children and leads to numerous other complications and problems and results in hardship and demoralisation. It therefore, follows that the policy of transfer should be reasonable and fair and should apply to everybody equally. But, at the same time, it cannot be forgotten that so far as superior or more responsible posts are concerned, continued posting at one station or in one department of the Government is not conducive to good administration. It creates vested interest and therefore, we find that even from the British times the general policy has been to restrict the period of posting for a definite period. "We wish to add that the position of Class III and Class IV employees stand on a different footing. We trust that the Government will keep these considerations in view while making an order of transfer."

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In this case before the Hon'ble Supreme Court, the special leave petition was filed challenging an order of transfer of a Government servant made by the authority other than a Government itself and the point was whether it was appealable before the Government under Rule-19 of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. The special leave petition was dismissed. Their lordships held that the transfer is always understood and construed, as incident of service. It was also observed by their lordships that the transfer of a Government servant who was appointed to a particular cadre of transferable posts from one place to another is an ordinary incident of service and therefore, does not result in any alteration of any of the conditions of service to his disadvantage. It is also observed in this decision that a Government servant is liable to be transferred to a similar post in the same cadre which is a normal feature and incident of Government service and no Government servant can claim to remain in a particular place or in a particular post unless, of course, his appointment itself is to a specified, non-transferable post. In the instant case, the post held by the applicant is a transferable post and the transfer does not result in any alteration of any of the service conditions to his disadvantage. It is not shown how this transfer is against any Rule or policy of the Railway department. The learned advocate for the applicant submitted that the applicant has a large family of 13 members and there are 9 daughters in his family, and the family will be adversely affected by this transfer. The learned advocate for the respondents submitted that the applicant is at one

station since long about twenty years and now transfer is made. It would not amount to a frequent transfer as alleged by the applicant nor would it be unreasonable and there is no question of irreparable harm to him and the decision relied by the applicant does not help him. I agree with the submission of the learned advocate for the respondents that the applicant being at one station since long and now that he is transferred in the interest of Administration without any disadvantage to him cannot be considered as unreasonable or unfair. No doubt the applicant is a Class-IV employee but the impugned order cannot be considered to be unreasonable or unfair. I hold that the decision cited by the applicant does not help him.

4. The learned advocate for the applicant also relied on the decision in Automotive Manufactures Ltd. Versus Nanalal Panachand Vakharia and another, - 1978 (1) Service Law Reporter, P.307. This is the decision of the Gujarat High Court. The question involved in that matter was whether there was an implied condition in an oral contract of employment obliging the respondent workman who joined the services of the petitioner Company as Accounts Clerk in 1962, at a small monthly salary to submit to a transfer to a branch of the employer Corporation in some other town or city. In that case, admittedly transferability out of the City was not an express condition of service and therefore, it was held by the High Court that one cannot ascribe to the respondents, a lowly paid employee, such a desire to subject himself to transfer to a branch outside the city. Learned advocate for the applicant

submitted that the applicant is also a lowly paid employee and he would <sup>be</sup> ruined if he is transferred as he has a large family. The decision relied on by the applicant does not apply in this case because it is a admitted fact that the applicant is serving in a transferable job, and therefore, he is liable to be transferred to a similar post in the same scale and <sup>that is</sup> an ordinary incident of service. The fact that the applicant has a large family will not make the transfer or unreasonable or unfair, and therefore, there is no substance in ground no. 'B', of the application.

5. I have also examined the grounds 'D' and 'E', and I do not find any substance in these two grounds also. The respondents have contended in the reply that the applicant has still eight years to serve and he is at one station for a very long time, and there is no breach of any statutory rule. The learned advocate for the applicant has also not established that there is any breach of <sup>any</sup> statutory rule. The question of quarter referred to in ground 'E' also can not be considered as a factor holding transfer unreasonable. There is no ground 'F' mentioned in the application.

6. The applicant has mentioned in ground 'C' that when he pointed out his claim for promotion and also irregularities and illegalities, made by the respondents permitting a mad person and a person physically not fit to be promoted to a higher post, from the post of Khalasi, and when these facts went higher in the minds of the respondents and one Mr. Harbanslal, who is

an interested person in the promotions made ~~along~~with ~~one~~ Engineer Mr.Meena and along with one another made a conspiracy by a special meeting against the applicant and decided that the applicant should be driven out in the manner possible for them. And this abnormal act of transfer is made. The applicant in para-6, of the original application which relates to the facts of the case has stated that though he has passed the test for promotion to a higher post of Welding Assistant in the year 1979, he was denied the promotion to a higher post right from a date of his initial appointment i.e., 1962. He has also alleged that he has made various efforts by representations and oral requests that he should be promoted to a higher post but the respondents did not pay any heed to it. He has also alleged that he was promoted on a temporary basis for one year to the higher post of Welder Assistant, for a period from August, 1983 to August, 1984, but again he was reverted to the post of Khalasi. He has mentioned further in this para that, he had made many representations in the year 1986, 1988, 1990 and 1991, collectively produced at Annexure-A/2, stating his grievances giving the names of persons out of whom one was mad and another physically not fit to whom the respondents gave promotion. The learned advocate for the applicant submitted that it was due to these facts of the representations produced at Annexure-A/2, which made the respondents to get <sup>their</sup> ~~tempor~~ high and thereafter the big headed persons of the respondent department had a meeting so as to see that the applicant is driven out of the job and as a result of this, the applicant has been transferred. The learned advocate for the respondents submitted that none of the allegations made by the applicant in this application is established

and there is no malafide act on the part of the respondents in transferring the applicant.

7. Learned advocate for the applicant submitted that the words used in the reply para-2, by the respondents, "Generally bias, or malafide intentions are alleged when a transfer is made but without giving any positive proof, the same cannot be believed.....", reflects the mind of the respondents against the applicant. He submitted that the applicant takes exception to this irresponsible statement. I have examined this contention of the respondents in para-2, of the reply. This contention only shows that whenever there is any order of transfer, the person challenging the transfer alleges bias or malafide intention against the transferring authority, but without giving any positive proof the same cannot be believed. This contention cannot be said to be reckless and the applicant could not take this contention of the respondents as exception. It cannot be denied that the allegations of malafides have to be proved. Mere assertion is not sufficient. It is held in the decision in State of Bihar and Another Versus Shri P.P.Sharma and Anr. J.T. 1991 (2) SC - P.147, that persons against whom malafide or bias is imputed should be impleaded as the parties to the proceedings and given an opportunity to meet those allegations. The applicant though has made allegations against one Mr.Harbanslal and one Engineer Mr.Meena, they are not joined as parties. The learned advocate for the respondents rightly submitted



that the present respondent who has filed the reply cannot have any knowledge about these allegations made by the applicant against Mr. Harbanslal or against one Engineer Mr. Meena. He submitted that there is no malafide or ulterior motives involved nor there is any malafide intention of the department in transferring the applicant.

8. Learned advocate for the applicant further submitted that what standard of proof is necessary to prove "malafide". He submitted that abnormal attitude should be considered as a malafide action. He submitted what proof of malafides can be expected from Class-IV, servant and according to him standard of proof required from a person like the applicant would not be the same as expected from a higher officer. Now let us examine the applicant's complaints/representations, collectively filed at Annexure-A/2, and whether these documents establish malafides on the part of the respondents in transferring the applicant.

9. The applicant has produced eight annexures collectively as A/2. The 1st is letter dated 14th April, 1986, to the D.R.M., Ajmer, in which the applicant has made a complaint regarding his promotion, pay fixation, and payment of dues and he has mentioned in it that since four years he is baging for justice but no progress was made. He has further mentioned that if justice was not done to him he will be compelled to file suit in the Court. It is not averred in this application what



was the reply given to him to this complaint. This is a dispute regarding his promotion and fixation and payment of dues which according to him, he is asking since last four years. This complaint has no nexus with the alleged transfer, which the applicant mentions in his ground - 'C'. This document does not show that the transfer of the applicant is made with a ulterior motive. The next document produced by him is un-dated. It is addressed to senior D.M.E./Ajmer. This is also with regard to promotion, reversion, etc. This letter shows that according to the applicant he was promoted in 1983, though he was declared passed as Welder on 23.3.1979. He also made a complaint that his payment as Welder was converted to Art.Khalasi wase. He has requested by this letter to the authority to give him the work of the Welder in the Cadre of Welder and the payment of Welder. This letter can hardly be considered to suggest any malafide on the part of the respondents in transferring him. The applicant has produced three copies of the letter dated 10th June, 1991, addressed to The General Manager, Western Railway, Churchgate, Bombay, respondent No.1. These are the three copies of the same date at Item No. 3, 4, 6, and 7. It is a complaint by three persons including the applicant that, these three persons were called to appear in the trade test and the result was notified on 27th May, 1991, in which the signaturies of this letter were declared failed, while one Mr.Balkrishan-Singh, who appeared in the trade test was declared pass, though according to the applicant, he was mentally deranged <sup>person,</sup> 7

unable to do any act. According to the signaturies of this letter this position is veri filed from the service record and medical certificates submitted by Shri Balkrishhaasingh. It is also mentioned in this complain~~t~~ that DR inquiries have been held against Shri Balkrishansingh and his two years increments has been stopped. The learned advocate for the applicant submitted that this Balkishansingh was a mad person, not physically fit to be promoted and this fact of the applicant made the respondents to get their temper high and thereafter the **big** headed persons of the respondent department had a meeting so that the applicant is driven out of the job. The applicant has mentioned in ground-'C', the name of Mr.Harbanslal, and one Engineer Mr.Meena, who held a special meeting and a conspiracy was made against the applicant. As observed earlier these persons are not joined as party. No allegation is made against the person who has transferred the applicant more-over there is nothing to show in the record if any reply was received **by** the applicant from the respondents. There is also nothing on record to show that the allegations made in this letter were true. There is also no evidence to show that on receipt of this letter dated 10th June, 1991, by the respondent no.1, and others whom the copies were sent conspiracy was made as alleged by the applicant to transfer him. No documentary evidence is produced to show, who received this letter. Moreover, there is no allegations in this letter dated 10th June, 1991,

against any officer but the request was only to make or arrange inquiry in this matter. Therefore, from this letter it cannot be said that the applicant was a victim of any alleged conspiracy between the persons alleged in the application. This letter also shows that the applicant and two others who were signatories of this complaint were declared failed in the trade test, and if the grievance was that there were some irregularities or illegalities in failing them in the trade test, it is upto them to take proper action, according to the Rules. But it has no nexus with the alleged transfer.

10. Then the next letter is dated 3rd August, 1991, which also bears the signatures of the applicant and two others, in which also it is mentioned that one fellow worker who is mad and certificate issued to him by the Doctor, has been promoted. In this letter, the request made by the applicant and two others is to consider their request to take trade test at Mechanical Grade-IIIrd, and if the action is not taken, these persons would go on hunger strike on due date. So, this letter was in the form of request to take test of the persons who have signed the letter dated 3rd August, 1991. If nothing is done in this matter, it is for them to agitate the question of promotion or trade test as per Rules. But from this letter, it cannot be concluded that this was a letter instrumental to his transfer and no malafide could be inferred on the strength of this letter. The other letter item No.3, is also a copy of the same letter, dated 13th February, 1988. These documents show that the

applicant has not been promoted because he has not passed the trade test and his grievance about the promotion cannot be tagged with a question of transfer. Having considered all these documents, I find no substance in the allegations made in para-6, of the application nor in the ground-'C', of the application. The allegations of malafide are serious allegations which require proper proof, even if the person like the applicant is a Class-IV, servant.

11. The learned advocate for the applicant also criticised the contention of the respondents in the reply in which the respondents have mentioned that the applicant has been serving in the very station for the last twenty years, that he has still eight years to pass before retirement, and the department wants his services at another place in the interest of Administration so that his ability can be used in the other station, and therefore, his transfer has been done. The applicant is working on the post since years and if he has a dotless carrier, and if the respondents want to utilise on the other station by transferring him, there is nothing wrong in it. The applicant can only get promotion if he passes trade test or viva-voce, according to the Rules and if he has not passed the same, he can not attack the transfer order on the grounds of malafides.

12. The learned advocate for the applicant also submitted that the transfer of the applicant is in violation

of Industrial Disputes Act, Section-25 (T) and it is an unfair labour practice. Unfair labour practice is defined in Section-2 (ra), of the Industrial Disputes Act, which means any of the practices specified in the 5th schedule. Learned advocate for the applicant submitted that if the employer commits any unfair labour practice he is punishable under Section-25 (U) of the Industrial Disputes Act, and the applicant has acted in contravention of Section-25-T of the Industrial Disputes Act, which action is punishable. No such specific ground is taken in the application. However, even if these arguments are considered, the same have no merits. He invited my attention to Schedule- 5, item No.7, which deals with transfer of a workman malafide from one place to another under the guise of following management policy.

13. In this connection the learned advocate for the applicant relied on the decision in Kerala Rubber and Reclaims Limited and others Versus P.A.Sunny, reported in 1989 (3) SLR, Page No.359. The question in the matter was about the jurisdiction of the Civil Court to entertain the suit, regarding the dispute under Section 2 (K), 10 and 25-T- of Industrial Disputes Act, 1947, and it was held that the Civil Court has no jurisdiction to entertain the suit. In that case also an order of transfer was challenged on the ground of malafides, victimisation and unfair labour practice. The relevant Sections of <sup>the</sup> Industrial Disputes Act are

discussed in the judgment. This decision on the contrary goes against the applicant that the right and the remedy have been provided under the Industrial Disputes Act, in the matter of malafide transfer by the management and therefore, the jurisdiction of the Civil Court is barred. The applicant want to rely on the ground which was not taken in the application. He may raise Industrial Dispute under I.D. Act, and his remedy would be before the Labour Court, if he succeeds in raising Industrial Dispute. Thus the argument advanced by learned advocate before this forum has no merits.

14. The learned advocate for the applicant has also relied on the Judgment in P.Periyaswami and others Versus Union of India and others, 1989 (7) S.L.R. Page.203, Central Administrative Tribunal, Madras. The applicants in that case were a Farm Hands in the Military Farm House in Madras and they challenged the order of transfer transferring them to Secunderabad on the ground of malafide. Their main allegation was that the order was issued at the instance of the 4th respondent in that case, and the orders were issued by the 3rd respondent only on the advice of the fourth respondent against whom the charge of malafide had been alleged. It was also their case that they belonged to the non-transferable category. It was established in that case that the posting order issued by the third respondent did referr to a letter written by the fourth respondent dated 10th April, 1989. The applicants in that case had made representations to the third respondent bringing to his notice the behaviour of the fourth respondent in dealing

with the farm hands. It was urged that the persons who are non-transferable, should not be displaced and thrown into another area in a completely different alien place, and that the transfers were more in the nature of punitive action. Considering the documentary evidence on record, the Tribunal held "these are not transfers simpliciter purely on administrative grounds. The mass of evidence placed before us by the learned counsel which has gone unrebutted both in the counter filed on behalf of the fourth respondent and by the counsel who appeared for the fourth respondent, as also on the nature of the representation made by the applicants and the letter dated 10th April, 1989, sent by the fourth respondent, all make it clear that the transfers ordered are not on administrative exigencies." The representations made by the applicants were also returned to the sender by the postal authorities, with the endorsement "refused". It was therefore held that there was malafide act on the part of 4th respondent in suggesting transfer to the third respondent vide his letter dated 10th April, 1989, and therefore, that order was quashed.

15. The documents which are placed in this matter before me, do not prove any malafides against the respondents, and the above decision, therefore, does not help the applicant.

16. It is also submitted by the learned advocate of applicant that the order of transfer is a colourable exercise of power by the respondents. There is no substance in this submission. The learned advocate for the applicant

submitted that the respondents have filed a Caveat in this case to oppose the admission which shows malafide intention of the respondents. The learned advocate for the respondents submitted that the respondents were entitled under law to file Caveat and it cannot be termed as the malafide act. I agree with him that the Caveat Application filed by the respondents would not suggest any malafide against applicant.

17. So far the grounds- 'D' to 'G' are concerned I find no substance in any of those grounds. The act of transfer is not a punishment or victimisation. The applicant has also failed to establish that there is any violation of statutory Rules. The law on this subject has been well settled by the decisions in Gujarat Electricity Board Vs. Atmaram Sungomal in A.I.R. 1989 SC - Page. 1433, Union of India Versus H.N.Kirtania, A.I.R., 1989, S.C. Page. 1774, and in the case of Mrs. Shilpi Bose and ors. Vs. State of Bihar and ors. 1991, S.C. Page. 532. The learned advocate for the respondents also relied on these decisions. It is held in these decisions that the Courts should not interfere with the transfer orders which are made in the public interest and for administrative reasons, unless the transfer orders are made in violation of any mandatory statutory Rule or on the ground of malafide. The transfer is an incident of a service and not a penalty. In this case I am not satisfied that the transfer is made against any mandatory statutory rules or that it is the result of malafides on the part of the respondents.



18. The learned advocate for the applicant also referred to Article-21, of the Constitution of India, which says that no person shall be deprived of his life or personal liberty except according to procedure established by law. He submitted that there was violation of Article-21, of the Constitution of India, in this case. He relied on the decision of the Workmen of the Food Corporation of India, Versus M/s. Food Corporation of India, A.I.R. 1985, Supreme Court, page.670. In that case, the Union of the workmen had protested against the illegal action of the management alleging that apart from being an unfair labour practice, the changeover was illegal and vindictive and malicious in character. An industrial dispute in this behalf raised by the Union was referred by the Central Government to the Industrial Tribunal, under Section-10, of the Industrial Disputes Act, for adjudication. The Tribunal negatived the claim of the workmen and made the award to that effect, against which the matter was taken to the Hon'ble Supreme Court. It was held that the anti-labour practices must be thwarted or nipped in the bud. I have gone through this decision. Reading para-19 of the decision, it was clear that if the workmen likely to be affected by the change under proviso to Section-9-A, of the Industrial Disputes Act, 1947, to whom the Rules like the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette apply, no notice of

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change would be necessary before effecting a change. This decision does not help the applicant at all. There is no question of illegal change in transferring applicant nor Section 9-A of I.D. Act is attracted in view of applicability of Indian Railway Establishment Code being applicable to the applicant. I am also not satisfied that there is infringement of Article-21 of the Constitution of India as submitted by the learned advocate for the applicant.

19. I have considered all the grounds taken in this application and all the submissions made by the learned advocates of the parties, and I am not satisfied that the transfer of the applicant was result of malafide action of the part of the respondents or in violation of any mandatory statutory provision of such Rule. I am not satisfied that the impugned order is illegal, or bad in law. Result is that the application fails.

ORDER

The application is dismissed. No order as to costs.



(R.C. Bhatt)  
Member (J)