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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH.
JODHPUR

OA NO.327/1996

DATE OF ORDER: 11.10.1996

SHRI J.C.CHAUDHARY

.....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

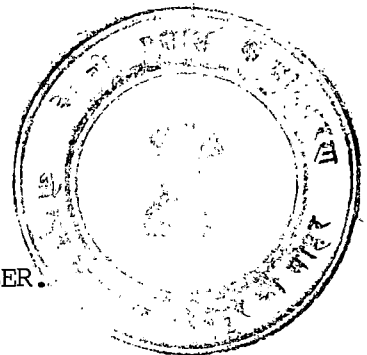
.....RESPONDENTS

PRESENT:

Mr.J.K.Kaushik, counsel for the applicant.
Mr.K.S.Nahar, counsel for the respondents.

CORAM:

HON'BLE MR. A.K. MISRA, JUDICIAL MEMBER.



BY THE COURT:

The applicant has filed this OA challenging the order dated 3.10.96 at Annex.A.1, transferring him from Jodhpur to Jaisalmer on the same post i.e. Sub Divisional Engineer(G). The applicant submits that the order of transfer at Annex.A.1 being illegal and arbitrary deserves to be quashed.

2. The applicant in his application has challenged firstly, that this is a mid-term transfer and his school going children are studying in various classes. Secondly, the applicant is trained in the system installed at Jodhpur and the system installed at Jaisalmer is different than that at Jodhpur, thirdly, the applicant has alleged that the order does not indicate that it has been passed in the interest of service or for exigencies of administration as also the impugned transfer order does not indicate about the joining time, transfer T.A. and other transfer perks. For these reasons, the applicant has prayed that the transfer order be quashed.

3. A detailed reply has been filed on behalf of all the respondents wherein it is alleged that whatever training the petitioner has undergone in respect of the system was only in the nature of a refresher course and he has not been imparted any specialised training in respect of the system installed at Jodhpur Division. The respondents further submitted that the working system of Telephone

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Exchange at Jaisalmer is not of the nature with which the applicant is not acquainted. They have further alleged that the transfer is a necessary condition of service and is not a punishment. The respondents have made it clear that the applicant has been staying in Jodhpur for about 19 years on different posts and he can be transferred within the Circle and if necessary anywhere in India in the interest of administration or for exigencies of service, therefore, the transfer order can not be said to be biased. The applicant has nowhere alleged any mala fide intention in passing the impugned order. The respondents have stated that the applicant has approached this Tribunal without making any representation in respect of his transfer to the concerned higher authorities. As such, the instant application is liable to be dismissed with costs.

4. I have heard the learned counsel for both the parties on merits and have gone through the records/annexures as also the rulings cited by the learned advocates.

5. The applicant has not established that he has been imparted any specialised training in respect of the communication system installed at Jodhpur. However, during his tenure, if he had attended refresher courses and training from time to time, he can not say that he has been specially trained in a particular system. Even if for arguments sake, it is taken that the applicant has been trained in respect of the system installed at Jodhpur, then also, it is the look-out of the Senior Administrative Officers/Concerned higher authorities as to where the applicant can be posted. When the applicant is being posted at Jaisalmer, it is not for him to say that he is a better trained person to handle the system at Jodhpur. Therefore, on this count, I do not find any force in the arguments of learned counsel for the applicant.

6. Transfer is one of the essentialities of service and if no malafides have been attributed to the superiors in respect of the transfer, then the same can be taken to be in exigencies of service. For an effective maintenance of various systems the officials and officers have to be transferred from one place to another from time to time. The applicant can not interpret the transfer to his own benefit by arguing that it is a mid-term transfer or that he is better equipped to work at Jodhpur. No doubt, the applicant's children are reading in various schools, but Jaisalmer is also a District Headquarter where Government and Public Schools are available and his children can also be admitted there. In Schools a student can be admitted on transfer, in

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the first term without any difficulty. The Government servants on transfer, are also awarded disturbance allowance as per rules to meet such financial losses which the Government servant may suffer in respect of his establishment including that of expenses relating to admission of children in schools. Therefore, I am also not impressed and convinced by the argument on the point of transfer in the educational mid-term.


7. It was also argued by the learned advocate for the applicant that the Order Annex.A.1 is absolutely silent in relation to grant of Transfer TA, Allowances and Joining Time etc. thus, the order of transfer is bad in law, but I am not in agreement with this argument because these benefits are provided under the rules and the thing which is prescribed under the rules, can be claimed by such Government servant as of right. Therefore, mere absence of mention of grant of any such allowances and benefits on transfer, can not be interpreted to mean that they have been disallowed to the applicant/transferee. Moreover, the non petitioners by their order at Annex.R.1 have specifically mentioned that TA/TP are admissible as per departmental rules. In this way, it can not be said that by way of transfer, the applicant has been deprived of benefits and allowances etc.

8. The learned advocate for applicant, has, in the last argued that if order at Annex.A.1 is not quashed in toto, then, the same may be kept in abeyance till the end of educational session which has been controverted by the learned counsel for the respondents on the ground that putting such transfer orders in abeyance would mean that post would remain vacant at Jaisalmer and there will be administrative problems.

9. I have given my anxious thought to this argument and in my view putting such transfer orders in abeyance would have the affect of keeping the post vacant and who knows after 6-8 months a new problem may come up and it may not be possible to give effect to the impugned transfer orders. Therefore, I do not think it proper to accept the contention raised by applicant's learned advocate.

10. For the foregoing reasons, I come to the conclusion that the Application of the applicant is without any force and deserves to be dismissed. Therefore, it is hereby dismissed at the stage of admission.

11. In the circumstances of the case, both the parties are left to bear their own costs.


(A.K. MISRA)
Member (Judl.)