

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

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DATE OF ORDER : 03. 11. 1999.

O.A.NO. 250/99

Meghraj Adlakha S/o Shri Ram Chandra, aged about 49 years R/o Junni Basti Mandor, Jodhpur at present employed on the post of Monument Attendant, at Mandor Fort, Jodhpur, Sub Circle Jaisalmer, Archaeological Survey of India, Station Road Jaisalmer (Under Supervision of Sub Circle Udaipur).

.....APPLICANT

VERSUS

1. Union of India through Secretary to Government of India, Ministry of Planning and Programme Implementation, Department of Archaeological Survey of India, New Delhi.
2. The Superintending Archaeologist, Archaeological Survey of India, 70/133-140 Patel Marg, Mansarovar, Jaipur.
3. Shri D.C.Sharma, Conservation Assistant Grade-I, Archaeological Survey of India, Sub Circle, Udaipur.

.....RESPONDENTS

CORAM :

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

Mr.J.K.Kaushik, Counsel for the applicant.

Mr.Vineet Mathur, Counsel for the respondents No.1&2.  
None present for the respondents No. 3.

PER MR.A.K.MISRA :

The applicant who was working on the post of Monument Attendant at Mandor Fort, Jodhpur, has filed this O.A. against his

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transfer to Sas-Bahu Mandir, Nagda, Udaipur, ordered vide order dated 16.8.99 (Annex.A/1). The applicant has challenged the transfer order on the ground that it is a mid-term transfer. No public interest in transferring him from Jodhpur to Udaipur is involved. The order is arbitrary and tainted with malafide. The applicant has also challenged the transfer order that the same is punitive in nature and against the principles of natural justice.

2. The applicant has prayed that the impugned transfer order be quashed and during the pendency of the O.A. the same be stayed.

3. Notice of the O.A. was given to the respondents. The respondent No. 2 filed the reply of the O.A. It is stated by the respondents that the transfer of the applicant was made in administrative exigency and in public interest. Many attempts of theft of items of archaeological importance were made by anti-social elements in the Sas-Bahu Temple, Nagda, therefore, in order to fortify safety measures the applicant has been transferred to Nagda. It is also alleged by the respondents that applicant was found on many occasions neglecting his duties and absenting himself from the monumental site. The transfer order is neither punitive nor based on malafide grounds. The O.A. has no force and deserves to be dismissed.

4. We have heard the learned counsels for the parties and gone through the case file. It is a settled principle that the transfer order can only be interfered with if the same is based on malafide grounds and is against the statutory rules. In the instant case the transfer is not proved to be in violation of

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statutory rules. So far as the malafides are concerned, there are no specific allegations of malafide against the respondent No. 2 who is the only competent authority to transfer the applicant and who in fact has transferred the applicant to Nagda. Certain allegations of bias have been levelled against the respondent No.3 but in our opinion they are without any substance. A supervisory authority is cast with the duties of controlling his subordinates. He is also to see the working of the subordinate staff. If some staff member is derelicting in discharge of his duties, explanation can be called from such subordinates. Calling explanation from the subordinate staff cannot be allowed to be cited as instances of bias or malafide. If this is allowed to be done then probably subordinate staff cannot be made accountable to the duties which they have to perform and no explanation can ever be called from any of the subordinates in case he neglects to discharge his duties as are entrusted to him. In our opinion, there are no grounds of colourable exercise of power. Whenever the applicant was found absent from duties during inspection he was called upon to explain his conduct. The applicant has given explanations to such notices which also go to show that the applicant is in a habit of levelling allegations against his seniors. The applicant has ~~remained~~ <sup>remained</sup> posted in Mandor (Jodhpur) since 1982, therefore, he cannot say that he has been subjected to frequent transfers or his transfer is a premature transfer.

5. Applicant's daughter is a private student and applicant's son is a student of Government school having the syllabus of the Board of Rajasthan. There are no allegations that there are no school available either at Nagda or near about town of Ekling-

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ji. In view of this, the applicant cannot say mid-term transfer would disturb the education of his son. In Rajasthan Government there are rules that the student of one Government school is to be given admission to another Government school without any extra expenditure of re-depositing the fee in cases of transfer of his father or mother. In view of this, the applicant can get his ward admitted in the school in Ekling-ji which is just a nearby town to Village Nagda. In our opinion, the point of mid-term transfer is not available to the applicant in the instant case.

6. The applicant's transfer has been made in the public interest. Simply because nobody has been transferred vice him to Mandor Fort that does not mean that the applicant's transfer is not in public interest or that the public interest would suffer adversely if the applicant is directed to proceed on transfer as ordered. It is for the administration to see as to at what place services of a particular Government servant are needed more, therefore, the impugned transfer order cannot be faulted.

7. In our opinion, the applicant has not been able to establish a case for cancellation of his transfer which has been made by the impugned order Annex A/1. The O.A. in our opinion, deserves to be dismissed.

8. The O.A. is, therefore, dismissed. The parties are left to bear their own cost.

*Leopold S*  
(GOPAL SINGH)  
Adm. Member

*b/m  
3/11/99*  
(A.K.MISRA)  
Judl. Member

Copy Received by

Deoraj Rao

(mag Raj)  
Rajpal Singh  
04/11/88.

f/c  
Qu 5/1/89  
Deoraj Rao  
(Name & initials)  
Add:

Part II and III destroyed  
in my presence on 20.7.88  
under the supervision of  
section officer ( ) as per  
order dated 16.1.88

Section officer (Record)