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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR.

O.A. No. : 269/1999

Date of Order : 17.11.1999

Heera Lal S/o Sh. Ramdeo, aged about 38 years, resident of Quarter No. A-5, Sector 5-A, J.N. Vyas Colony, Bikaner, working as Khallasi in the office of Assistant Engineer (Electric), Civil Construction Wing, All India Radio, Bikaner.

..Applicant.

Versus

1. Union of India through,  
The Secretary Ministry of Prasar Bharti and  
Broad Casting, Suchna Bhawan, New Delhi.
2. The Executive Engineer (Electric),  
Civil Construction Wing, All India Radio,  
10th Floor, Infirmary Bhawan, C.G.O. Complex,  
Lodi Road, New Delhi.
3. The Assistant ENgineer (Electric),  
Civil Construction Wing, All India  
Radio, Bikaner.

..Respondents.

Mr. Y.K. Sharma, counsel for the applicant.

Mr. Ramesh Singh, Adv., Brief Holder for,  
Mr. Vinit Mathur, counsel for the respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. A.K. MISRA :

The applicant has filed this OA with the prayer that the impugned order at Annexure A/1 dated 7th September, 1999 be set aside and the respondents be directed to pend the transfer order of the applicant till the school session is over.

2. Notice of OA was given to the respondents who have filed their reply. It is stated by the respondents that as against the transfer order, the applicant has made no representation. The OA is, therefore, liable to be dismissed as premature. There are no allegations of malafide or colourable

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exercise of power, hence the transfer order can not be interfered with. The children of the applicant are studying in Government Schools and the applicant has applied for transfer grants. Therefore, he is not entitled to any relief.

3. We have heard the learned counsel for the parties and gone through the case file. The applicant has challenged the impugned transfer order on the ground that it is a mid term transfer and has been ordered due to malice. The applicant has made representation for his promotion but instead of giving the relief claimed by the applicant, the applicant has been transferred from Jodhpur to Udaipur. No public interest has been shown in transferring the applicant from one place to another.

4. We have considered the rival contentions and have also considered the grounds raised in the OA. In our opinion, the present transfer order can not be interfered with as the same is not challenged on the ground of malafide or colourable exercise of power. The applicant, before filing this OA has not exhausted the departmental remedies for getting his transfer order cancelled on administrative side on the ground of mid term transfer and other personal reasons. Therefore, the OA can be termed as pre-mature. We have also considered the aspect of mid term transfer as per Annexure A/6, the children of the applicant are studying in Government school and are students of Class 5th, 4th and 2nd respectively. Mid term transfer in respect of a Government servant can be said to be of wider implications if his wards are students of higher classes and are students of specialised courses. Mid term transfer is also an important factor to be considered if admission forms of Board Examinations or University Examinations are filled in. Change of University and College may affect their studies but in the instant case the children of the applicant are students of primary class<sup>as</sup> and can be easily accommodated in Government schools at the new station. Even in respect of these children, no half yearly examination have yet been undertaken. Therefore, the transfer is not liable to be interfered with on the ground of mid term transfer.

5. It is the settled position of law that transfer order made in public interest and exigencies of administration are not liable to be interfered with less a specific case of malafide transfer or transfer on account of colourable exercise of power is made out. In the instant case, there are no allegations against the transferring authority. So far as far as the question of promotion is concerned, a candidate can claim to be considered for promotion, he has no right to be promoted. The respondents stated that as and when turn comes, the applicant would be



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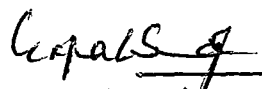
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considered for promotion as per rules. The applicant can not claim to be promoted on the ground that the promotional post is lying vacant. Therefore, on this count also, the transfer order can not be termed as vindictive.

6. In our opinion, the OA bears no merit. No case for interference in transfer is made out. The OA, therefore, deserves to be dismissed and is hereby dismissed.

7. The parties are left to bear their own costs.

  
(GOPAL SINGH)  
MEMBER (A)

  
17/11/99  
(A.K. MISRA)  
MEMBER (J)

