

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 28.11.2000

O.A. No. 37/1999

H.S. Sora son of Shri Asha Singh aged about 47 years resident of C/o. Chief Engineer (AF), Hanuman Camp, Ahmedabad, at present on the posted strength as Supdt. E & M Gr. I, in the office of the Chief Engineer (AF), Hanuman Camp, Ahmedabad (presently on temporary duty at G.E. Office, MES, Jaisalmer).

... Applicant.

v e r s u s

1. Union of India through Secretary to the Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, Southern Command, Pune - 1.
3. Brig. S.S. Hooda (Ex-Chief Engineer, Jaipur Zone), Chief Engineer, Hqrs. 33 Corps, C/o. 99 A P O.
4. The Commander Works Engineer (Army), Jodhpur.
5. Major J.P. Sharma, Ex-GE, through Commanding Officer, 115 Engineers Regiment, C/o. 56 A P O.

... Respondents.

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

Mr. Vinit Mathur, Counsel for the respondents Nos. 1, 2 and 4.

None is present for other respondents.

CORAM:

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

BY THE COURT:

The applicant has moved this O.A. with the prayer that the impugned transfer order dated 06.04.98 (Annexure A/1), transferring the applicant to Ahmedabad be declared illegal and be quashed, with all consequential benefits.

Am



2. Notice of the O.A. was given to the respondents. The respondents Nos. 1, 2 and 4 have filed their reply. Time was granted to respondents Nos. 3 and 5 to file their reply. Today, at the time of arguments, the learned counsel for the respondents orally submitted that the respondents Nos. 3 and 5 adopted the same stand and the reply given by the official respondents.

3. Arguments heard and seen the case file.

4. The applicant has challenged the transfer as punitive in nature and has in fact, been ordered to punish the applicant for having complaints against the concerned officers for misdeeds and misappropriations of Government funds. The transfer order is malafide, arbitrary and colourful exercise of power. In order to get rid of the applicant, the concerned officers have managed applicant's present transfer, which is premature and violative of Articles 14 and 16 of the Constitution of India.

5. The respondents have denied the allegations of the applicant. It is stated by the respondents that the transfer order is neither malafide nor punitive in nature. It is alleged by the respondents that the applicant could be posted to a place as per the departmental requirements.

6. The position relating to interference in the transfer matter is more than settled. No transfer order can be interfered with unless the same is proved to be malafide or due to colourable exercise of power. The transfer cannot be termed as malafide simply because the applicant alleges the same to be malafide. It is very easy to allege malafide, but difficult to establish the same. In the instant case,



Handwritten signature

R/COM
W.C.
4/12/2000

R/COM
4/11/12
B.C.

Part II and IM destroyed
in my presence on 29.2.07
under the supervision of
section officer as per
order dated 10/11/06

Section officer (Records)