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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR.**

Original Application No. 239/2005

Date of order: 23rd January 2006

CORAM:

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER

Vinod Kumar Saini S/o Sh. Nathmal Saini Ji, Aged about 32 years, R/o K-170, Baldev Nagar, Masuria, Jodhpur, (Rajasthan).

(Presently working on the posts of Mess Boy in the office of Assistant Director, Sports Authority of India, Sports Training Center, Barkatullah Khan Stadium, Jodhpur (Rajasthan).

....Applicant.

(Mr. S.K. Malik & Mr. Daya Ram, Counsel for the applicant.)

VERSUS

1. The Sports Authority of India, through its Director General, Jawahar Lal Nehru Stadium, Lodhi Road Complex, New Delhi.
2. Assistant Director, (Personnel), Sports Authority of India, Jawahar Lal Nehru Stadium, Lodhi Road Complex, New Delhi.
3. Assistant Director, Sports Authority of India, Sports Training Center, Barkatullah Khan Stadium, Jodhpur, (Rajasthan).



....Respondents.

(Mr. Manoj Bhandari, Counsel for the respondents.)

ORDER

Mr. J.K. Kaushik, Judicial Member.

Shri Vinod Kumar Saini has assailed the order dt. 3.08.2005 (Annexure A/1) and has prayed for quashing and setting aside the same, amongst other consequential reliefs.

2. With the consent of learned counsel for both the parties, the case was taken up for final disposal at the stage of admission keeping

[Signature]

in view the urgency and short controversy involved in this case. I have accordingly heard the arguments advanced at the Bar by the learned counsel and anxiously considered the pleadings as well as the records of this case.

3. The factual score of this case falls within a narrow compass. The applicant came to be appointed to the post of Mess Boy on dated 11.11.1992 at SPDA Center, Chittorgarh under Central Region. Due to closure of Chittorgarh Center, he was transferred to Sports Hostel Bhopal under the same region vide order dated 22.5.1995. Prior to 1997, all the Centers in the State of Rajasthan were under Central Region and subsequently they were put under the control of Western Region. The applicant was allowed own request transfer from Bhopal under Central Region to Jodhpur under Western region vide order dated 8.1.1999, which he immediately carried out and since then he is working at Jodhpur. Now the applicant has been ordered to be transferred from Jodhpur to Bhopal vide impugned order dated 3.8.2005. This OA has been filed on multiple grounds enunciated in para five and its sub-paras, which shall be dealt with a little later in this order.

4. The respondents have resisted the case and have filed a detailed counter reply to the OA. The main grounds of defence as set out in the reply are that the applicant has all India transfer liability to serve anywhere in India and this condition has been duly indicated in the appointment letter itself and the impugned transfer order has been passed in the interest of administration, calling for no interference. The rule provide for such transfer from one region to another with the

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approval of competent authority that has been duly obtained. As per their information, none of the children of the applicant is studying at Jodhpur, thus it would not have any adverse effect of their studies his children and the rule of prohibition of transfer during mid-academic session is not attracted. It is not a case of colourable exercise of power and there was no mala fide of any authority. The grounds raised in the OA have been specifically refuted.

5. The learned counsel for the applicant has vociferously reiterated the facts and grounds narrated in the pleadings as noticed above. He has stressed hard to demonstrate that applicant belongs to Western Region and his transfer to other region is *ex facie* unwarranted and uncalled for in as much as the respondents have not indicated any reason for the transfer and there is no administrative interest involved in the instant case. He has made me to traverse through the rules regulating the transfer and submitted that there has been violation of statutory rules. Non-disclosure of reasons of transfer is fatal to the sustainability of transfer order. He has cited the following authorities in support of his contentions: **(i) Ramadhar Pandey Vs. State of UP and ors. 1993 SCC (L&S) 918, (ii) Dr. Ravi Shankar vs Union of India and ors [2005 (1) ATJ CAT 104,] (iii) K P Prasad Vs. Union of India [2004 (3) ATJ CAT 97] and (iv) Mohinder Singh Gill Vs. Chief Election Commissioner AIR 1978 SC 851.** Lastly he has contended that the applicant has already sacrificed his seniority by undertaking own request transfer and now he may not get his original seniority and his service prospects would be jeopardized for none of his faults.



6. Per contra, learned counsel for the respondents with equal vehemence opposed the contentions raised on behalf of the applicant and reiterated the defence of the respondents as noticed above. He has submitted that there has been neither violation of any statutory rules nor any ground of mala fide made out. He has also contended that the applicant has been transferred in the interest of administration and no interference is called for from this Tribunal. He has also contended that it is not necessary to disclose the reasons in the transfer order and the transfer order need not be a speaking order. He has asserted on instructions from the officer in charge that the applicant is being transferred in the interest of administration and would be assigned his original seniority at Bhopal in Central Region. He has also cited some of the decisions in support of his contentions, which are dealt with while ascertaining the scope of judicial review in transfer matters in succeeding paras.



7. I have considered the rival submissions put forward by the learned Counsel for the parties and have perused the material on records. The respondents also produced the relevant file for perusal of this Tribunal. The law relating to the transfer of the Government servants has been fairly settled by various Courts as well as the Hon'ble Supreme Court and some of them are **Union of India v. S. L. Abbas, 1994 SCC (L&S) 230, Rajendra Roy v. Union of India, AIR 1993 SC 1236, Mrs. Shilpi Bose v. State of Bihar, AIR 1991 SC 532, State of U.P. and others Vs. Gobardhan Lal AIR 2004 SC 2165** etc. In nut shell, it may be put that the transfer of an employee is a part of conditions as well as an incidence of his service and an order of transfer is not required to be lightly interfered by a Court of Law in

exercise of its discretionary jurisdiction unless the Court finds that either the order is mala fide or that the service rules prohibit such transfer or that the authorities, who issued the order, had no competence to pass the order.

10. Testing the facts of this case on the touchstone of above principles, I do not find there any ground of mala fide, incompetence of authority that issued the order of transfer or violation of any statutory rule, which could be said to have been made out. Admittedly, the applicant, belongs to Western Region and is being transferred to Central region and therefore it is a case of inter-regional transfer. Thus the transfer order has been passed under Rule 19 (e) of the relevant rules; the contents of same are excerpted as under:


"Notwithstanding anything contained in the Para (a) to (d) above, any employee may be transferred from one Region to another Region or to Central Office or vice-versa on administrative grounds or in public with the approval of Director General."

From the perusal of the records produced by the respondents, it is evident that the competent authority has approved the transfer of the applicant.

12. As regards the disclosure of reasons for transfer in the transfer order or otherwise, there is no such requirement, as such and the reasons could be gathered from the material made available. In the instant case, I have perused the relevant noting on the file and the same was also shown to the learned counsel for the applicant. It is borne out that Bhopal Center is being activated and the staff who originally belonged to the said center is being brought back. It is not true that the applicant alone has been singled out for such transfer. The competent authority has approved the same. There is no iota of



doubt that the impugned order has been necessitated in the interest of administration as well as in public interest. The decisions cited on behalf of the applicant have no relevance to the controversy involved here. The respondents have already clarified the apprehension of the applicant regarding his seniority position and no adverse effect is likely to be caused on this account; rather he may gain his original seniority. If that were so, there is no force in any of the grounds put forth on behalf of the applicant and no fault can be fastened to the action of the respondents.

13. The upshot of aforesaid discussion leads to an irresistible conclusion that this Original Application sans merits and substance and the stands dismissed accordingly. The rule already issued stands discharged forthwith. Costs made easy.

J K Kaushik
(J K KAUSHIK)
JUDICIAL MEMBER

JSV

R/ copy
25/01/06

PLC
25/01/06
as
Jen
(Supervisor)
Adv.

Part II and III destroyed
in my presence on 31/1/14
under the supervision of
section officer () as per
order dated 31/1/2014

Section officer (Record)

31/1/14