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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 288/2013

Jodhpur this the 1st August, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

R.S. Rathore S/o Shri G.S. Rathore aged about 50 years, R/o Plot No 587 A New BJS Colony, Jodhpur. Presently working on the post of Assistant Director, Sports Authority of India, Sports Training Centre, Jodhpur.

.....Applicant

(Through Advocate Mr S.K. Malik)

Versus

1. Sports Authority of India through Director General, Jawahar Lal Nehru Stadium Complex Lodhi Road, New Delhi.
2. The Director (Pers) Sports Authority of India, Jawahar Lal Nehru Stadium Complex, Lodhi Road, New Delhi.
3. The Director of India, Netaji Subhash Western Centre, Sports Authority of India, Sports Complex, Sector 15, Gandhinagar, Gujrat..

(Through Advocate Mr Anil Grover and Aditya Singhi)

..... Respondents

ORDER (Oral)

The applicant, Shri R.S. Rathore, has filed present application under Section 19 of the Administrative Tribunals Act, 1985 challenging the order Annex. A/1 passed by the Director (Pers), Sports Authority of India (SAI) dated 24.06.2013 by which he was transferred from Sports Training Centre (STC), Jodhpur to Sports Training Centre, Alwar with immediate effect.

2. The applicant while challenging the above order averred in the OA that earlier in June, 2002 when he was posted as Assistant Director in STC-Alwar, he was attacked by a group of anti social elements who wanted to have their interference at SAI Alwar with the help of some SAI staff members. The applicant reported the matter to Aravali Vihar Police Station, Alwar and a FIR was lodged against the criminals under section 332, 353, 323 & 341 of IPC. After the investigation, police filed charge sheet against the accused persons and the case is pending in the criminal court of Alwar. After the said incidence, the applicant was asked to join in the office at Gandhinagar, as there was possibility of threat on the life of the applicant in Alwar. Later on, the applicant was transferred from Gandhinagar to Jodhpur on his own request on account of the fact that wife of the applicant was employed in State of Rajasthan as teacher and posted at Jodhpur. The applicant reported in the office of Jodhpur in April, 2007. The applicant was deputed on temporary duty to STC-Alwar on 02.11.2012 and when the applicant reached at STC-Alwar the criminals blocked the way of the applicant and asked him to make compromise or withdraw the criminal case pending before ACJM Alwar failing which they threatened the applicant to face dire consequences. The respondents surprisingly issued the impugned order (Annex. A/1) knowingly that criminals are behind the applicant. It has been averred in the application that applicant's wife is serving in Education Department of State Government and as per the Govt

policy where spouse of Central Govt. employee in the State Govt. than also he is required to be posted at Jodhpur as per general policy and therefore, he was transferred from Gandhinagar to Jodhpur. The applicant has challenged the legality of the order on the ground that he will face a danger to his life and sought following relief (s):

- “(i) By an appropriate writ order or direction impugned order No. 169/2013 dated 24.06.2013 at Annex. A/1, be declared illegal and be quashed and set aside as if it was never issued against the applicant.**
- (ii) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.”**

The applicant has annexed 9 documents Annex. A/1 to A/9 in support of his application.

3. The respondents replied to the OA by way of counter affidavit. The respondents in their reply have denied the grounds averred in the application for quashing the transfer order Annex. A/1. It has been averred in the reply that the services of the applicant are required at STC-Alwar and competent authority in its administrative capacity transferred the applicant from STC-Jodhpur to STC-Alwar. The respondents have also averred that if applicant feel any threat to his life he can approach the concerned police authority for the help and respondents shall also help him in every possible way. It has been averred in the reply that the applicant is no more required at STC-Jodhpur, therefore, in the administrative exigencies he was transferred to STC-Alwar and he

has got no right to stay at STC-Jodhpur after being relieved from the present post. By way of reply the respondents averred that the OA filed by the applicant is liable to be dismissed.

4. Heard both the parties. Counsel for the applicant contended that applicant has got immediate threat to his life as a criminal case is pending against the accused persons in Alwar who attacked him earlier while posting at Alwar and on 02.11.2012 when he was sent on temporary duty to STC-Alwar he was again threatened by the accused of dire consequences. Therefore, looking to the threat to the applicant at STC-Alwar, Annex. A/1 is required to be quashed and he further contended that his wife is serving at Jodhpur, therefore, he is required to be posted at Jodhpur. The counsel for the applicant has further contended that Annex. A/1 cannot be said to be in public interest or in administrative exigencies.

5. Per contra counsels for the respondents contended that the transfer order can only be interfered by the Tribunal while exercising powers under Article 227 of Constitution of India where there is established case of malafide is made out or on the ground of incompetence of transferring authority. Counsel for the respondents further contended that it is well settled principle of law that no government servant or employee of the public undertaking has any legal right to be posted forever at any particular station or place of his choice. The transfer of any employee is not only an

incident, but a condition for service, necessary too in public interest and for better efficiency in public administration. He further contended that if the applicant feels any danger to his life or to any property he can approach the competent authority for the same and respondent-department is also in favour to help the applicant for the same. The applicant can seek police protection as and when required by him or can approach the competent authority for the same but one cannot be allowed to remain at a particular station as per his own choice.

6. I have considered the rival contentions raised by both the parties. The applicant filed Annex. A/2 representation before the competent authority and the same is pending consideration but it is settled principle of law that transfers order can only be interfered by the court or tribunals in case of established malafide or the same has not been passed by the competent authority. In view of these settled positions of law order Annex. A/1 cannot be said to be illegal or against the provisions of law, therefore, OA lacks merit.

7. Accordingly, OA stands dismissed. However, it is made clear that by way of representation Annex. A/2 the applicant has already apprised the respondent-department regarding threat to his life at Alwar, therefore, the respondent-department is directed to consider the representation of the applicant within a month from the date of receipt of this order. Further, the respondent-

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department is directed to approach the competent authorities for the grievance made by the applicant regarding threat to his life at new place of posting. No costs.



(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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