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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.336/2013

Jodhpur, this the 17th day of October, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Bhanwar Singh Rajpurohit s/o Shri Jeevraj Rajpurohit, aged 43 years, r/o Village Dhagadwas, Post Chadwas, Via Sojat City, District Pali, at present working on the post of Accounts Clerk-cum-Typist posted as Nehru Yuva Kendra, Pali.

.....Applicant
Mr. Vinay Jain, counsel for applicant

Vs.

1. Nehru Yuva Kendra Sangathan through Director General, Core-IV, 2nd Floor, Scope Minar, Twin Tower Complex, Laxmi Nagar, District Centre, Delhi.
2. The Deputy Director (Personnel), Nehru Yuva Kendra Sangathan, Core-IV, 2nd Floor, Scope Minar, Twin Tower Complex, Laxmi Nagar, District Centre, Delhi-110 092.
3. The Zonal Director, Nehru Yuva Kendra Sangathan, Kendriya Sadan Parisar, Block-A, Room 204-205, Sector-10, Vidyadhar Nagar, Jaipur
4. Shri Hanwant Singh Chouhan s/o Shri Khim Singh Chouhan, village Karnava, Post Lunana, Tehsil Bali, District Pali at present residing at 1/126, Old Housing Board, Pali.

...Respondents

Ms. K Parveen counsel for resp. Nos. 1 to 3 and Mr. J.S.Bhadera for resp. No.4

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

The present application has been filed by the applicant challenging the order dated 13.8.2013 by which transfer order dated

25.7.2013 of the applicant has been cancelled and therefore, he has prayed for the following reliefs:-

- (i) It is, therefore, prayed by appropriate order or direction order dated 13.8.2013 passed by respondent department may kindly be quashed and set aside and applicant be allowed to work at Nehru Yuva Kendra, Pali.
- (ii) That, any other appropriate direction or order which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case may kindly be granted.
- (iii) Cost of this application may kindly be awarded.

2, Facts of the case, as stated by the applicant, in brief are that the applicant is working on the post of Accounts Clerk-cum-Typist in respondent department. The post on which the applicant is working is a transferable post and as and when transfer order has been passed, he has obeyed the same. Vide order dated 25.11.2010, the applicant was transferred from Rajsamand to Pali and respondent No.4 was transferred from Pali to Rajsamand. The respondent No.4 managed the things and respondent passed order dated 10.12.2010 by which transfer order dated 25.11.2010 was stayed. It is further stated that the respondent department has framed a transfer policy and an employee who is working at one place for more than four years then he is entitled to submit application for transfer. Accordingly, the applicant submitted application to transfer him to Pali. Thereafter the applicant vide order dated 25.7.2013 was transferred to Pali and in his place respondent No.4 was transferred. He was relieved and joined at Pali on 29.7.2013. The respondent No.4 again managed things and was able to get the transfer order cancelled and in pursuance of this, order dated 13.8.2013 was passed. Therefore, aggrieved with cancellation

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of his transfer order, the applicant has filed this OA praying for the reliefs as mentioned at para-1 above.

3. The respondents by way of filing reply have denied the right of the applicant. The official respondents submitted that according to transfer policy, an employee can be transferred after four years of his posting at one station. The applicant has moved an application on 14.6.2012 through proper channel to Divisional Office, Jaipur on 17.6.2013 stating his family problems to transfer him from Rajsamand to Pali and after thorough consideration of the application moved by the applicant, the competent authority has transferred the applicant at Pali vide order dated 25.7.2013. Thereafter, respondent No.4 whose transfer has been made from Pali to Rajsamand, has moved an application on 5.8.2013 to cancel the transfer order on the ground that during service, he sustained grievous injury on his leg in road accident and the treatment is still going on at Pali as well as family problems. After considering the facts mentioned by respondent No.4 in his application, the competent authority has been pleased to cancel his transfer order vide order dated 13.8.2013. It is further stated that the authority has decided to take into consideration the entire transfer matters in the next session of 2014 and the competent authority can cancel the order if the same is not as per transfer policy which causes prejudice to the person who was also transferred on request and got affected before completion of the tenure.

Respondents No.4 has also filed reply denying right of the applicant and the allegations made against him have been denied as

baseless and incorrect. It is submitted that the applicant was posted at Rajsamand on 8.8.2007 and he managed to transfer himself from Rajsamand to Pali at his own request in three years on 25.11.2010. This fact has not been disclosed by the applicant. This shows that the applicant by one or other means wants to be posted at Pali for his personal interest. The respondent No.4 has been transferred under the order dated 25.7.2013 only on the reason that the applicant made request to transfer him at Pali. There was no administrative reason to transfer the applicant and therefore, the present application deserved to be dismissed.

4. Heard both the parties and perused the relevant material available on record. The counsel for the applicant contended that the order Annexure A/1 dated 13.8.2013 has been passed after execution of the order at Ann.A/3 dated 25th July, 2013, therefore, once an order has been executed that cannot be cancelled. He has relied upon the judgment of Hon'ble Rajasthan High Court reported in WLR 1994 Raj. 537- Ganga Ram Vs. State of Rajasthan and Others in which it has been held that once a transfer order has been executed it cannot be cancelled.

5. Per contra, counsel for the respondents contended that it is the prerogative of the respondents to transfer any officer or staff from one place to another and the Courts or the Tribunals should not interfere in view of the various pronouncements of the Hon'ble Supreme Court, because the transfer can be made on the basis of

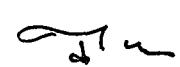
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administrative exigencies and only in cases of malfideness or incompetency to pass any order, such orders could be interfered with by the Courts or the Tribunals.

6. We have considered the rival contention of both the parties and in view of the aforesaid judgment of Hon'ble Rajasthan High Court, the order Ann.A/1 cancelling the order passed by the competent authority at Ann.A/3, is hereby quashed. The applicant and the private respondent No.4 may file their respective representations within a week from the date of receipt of a copy this order to the competent authority and the competent authority is directed to take appropriate decision in accordance with administrative exigencies and the relevant guidelines issued by the Department and after considering the representations of both the parties pass appropriate fresh order of transfer within two weeks from the date of receipt of representations. Till then, the status quo shall be maintained.

7. The OA stands disposed of accordingly with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

R/JRM