

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA 548 of 1997

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member  
Hon'ble Mr. M.K. Mishra, Administrative Member

Ajit Kumar Dolai

-VS-

M/o Defence

For the Applicant : Mr. N.C. Chakraborty, Counsel  
Mr. B.P. Manna, Counsel

For the Respondents: Mr. M.S. Banerjee, Counsel

Date of Order : 23-11-2004

ORDER

MR. MUKESH K.R. GUPTA, JM

In this O.A. the applicant has challenged the validity of order dated 1-2-1997, whereby his request to retain him at CE(FGM), Kalaikunda was not acceded to. He has also challenged order of the Chief Engineer, EC, Kalaikunda, whereby the posting and transfer policy of Group 'C' & 'D' was forwarded.

2. The facts which required to be noted are that vide order dated 30-3-1995(Annexure-R/1), a large number of officials were ordered to be posted on promotion from different stations and the applicant vide the said order was transferred from Kalaikunda to CF, Panagarh. On earlier occasion the applicant instituted an O.A. 936 of 1996 challenging the order dated 18-7-1996, which was movement order, based on the transfer and posting order dated 30-3-1995. The aforesaid O.A. was disposed of vide order dated 2.8.1996 with direction to dispose of the applicant's representation and till such

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disposal the impugned order dated 18-7-1996 was directed to be stayed. It is the contention of the applicant that he submitted representation in terms of the respondents' direction dated 16-1-1997 (Annexure-A/6). Thereafter, the respondents considered the said representation dated 20-1-1997 vide communication dated 1-2-1997 transferring the applicant to CF, Panagarh on promotion. It is contended that initially the applicant was Diesel Engine Static and in terms of Engineering-in-Chief's letter dated 21-7-1994 various trades were merged and were re-designated as Fitter General Mechanic (FGM) herein known as FGM. In total eight trades were clubbed together and re-designated as FGM. The applicant's contention is that there was no justification of transfer policy though there is existing vacancies in the category of FGM as on 16-8-1995 for which our attentions are drawn to Annexure-A/4 at page 21 of O.A. The applicant's further contention is that even though he was re-designated, no training was accorded to him.

3. On the other hand, the respondents' contention is that the aforesaid order dated 30-3-1995 was issued in public interest and for administrative reason. Accordingly, the applicant was transferred to CF, Panagarh as FGM HS-II as his services were urgently required by the said office, it became essential to transfer the applicant in the administrative interest. It is further contended that the post of Diesel Engine Static was surplus at GE(AF), Kalaikunda at the relevant point of time and therefore, he was transferred as FGM.

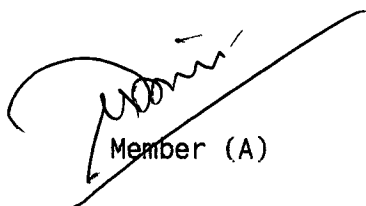
4. We have heard Ld. Counsel for both the parties and perused the pleadings.

The impugned order of transfer, it is apparent, have been issued in pursuance of a policy decision taken by the authorities. It is now well settled that the Court or Tribunal cannot interfere in the policy matter of the Government and substitutes its view.

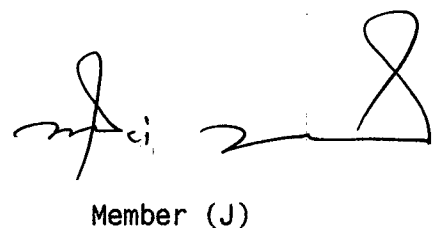
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5. It is well settled law that an order of transfer is an incident of government service. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court/ Tribunal cannot interfere with it. Executive instructions are in the nature of guidelines, they do not have any statutory force (See 1993 (4) SCC 357 - Union of India Vs. S.L. Abbas). If we examine the present case in view of the above said law, we find that neither there are allegations of malafides in passing the order dated 30.3.95 nor it was issued in breach of any statutory provisions of rules. The challenge made to the transfer policy of Group 'C' & 'D', in the present case is without any basis and substance.

6. In view of the above, we do not find any justification in the present application. Accordingly, the same is dismissed being devoid of merits. No costs.



Member (A)



Member (J)

DKN