

(42)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
Circuit Bench at Lucknow.  
Registration O.A. No.29 of 1989 (L)

Ayodhya Prasad ..... Applicant

Versus

Deputy Director, Military Farms,  
Headquarter Central Command,  
Lucknow and Another ..... Opposite Parties

Hon. Justice Kamleshwar Nath, V.C.

This application under Section 19 of the Administrative Tribunals Act XIII of 1985 is for issue of order to quash an order dated 6.4.1988, Annexure-1 of opposite party No.2, the Officer Incharge, Military Farms, Dehradun directing the applicant to proceed on transfer to join at Lucknow in consequence of an order dated 4.4.1988 of opposite party No.1, the Deputy Director, Military Farms, Headquarters Central Command, Lucknow. There is also a prayer to restrain the opposite parties from transferring the applicant from Military Farms, Dehradun to Military Farms, Lucknow. The learned counsel also prayed for the payment of arrears of salary from March, 1988.

2. The facts relevant for the purpose of this case are not in dispute. The applicant was initially appointed at Military Farms, Lucknow in 1973 and was transferred by an order dated 19.2.88, Annexure-5 from that post to Military Farms, Dehradun on permanent transfer. This transfer was made on the pressing requests of the applicant that he had received threats of being murdered at the Military Farms in Lucknow and that earlier four Farms hand had already been murdered. It may be mentioned that initially the request for transfer had been turned down but when the applicant

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113

- 2 -

repeatedly pressed for transfer on the aforesaid ground, he was transferred to Dehradun by Annexure-5. The facts set out by the applicant in this regard are contained in paragraphs 5(4) to 5(7) of the application of which there is no specific denial in the Counter Affidavit. The established position, therefore, is that the applicant had been transferred from Military Farms, Lucknow to Military Farms, Dehradun on 16.2.88 due to apprehension of death accepted by the opposite parties.

3. It appears that the applicant was posted as Safaiwala by an order dated 21.3.88 against which he made some representation. Perhaps his representation found no favour with the opposite parties, although it is not clear; but the applicant was ordered to be transferred back from Dehradun to Lucknow on 4.4.1988 of which the impugned movement order, Annexure-1 was issued by Opposite Party No.2 on 6.4.1988.

4. The simple point urged by the learned counsel for the applicant is that once the applicant had been transferred from Lucknow to Dehradun on the ground of apprehension to his life, he could not have been transferred back to Lucknow within a short period of two months without proper reasons. The opposite parties have not given any reason in their Counter Affidavit for transferring the applicant back from Dehradun to Lucknow. All that they have said in para 3(b) of the Counter Affidavit is that the applicant had been detailed on temporary duty to Central Command at Lucknow on which the necessary movement order was issued

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and the applicant noted it under protest and did not proceed to the Central Command. It is further said that on the appeal made by the applicant against his transfer, opposite party No.1 again asked the applicant to report back at Military Farms, Lucknow and yet the applicant did not move to his permanent duty station i.e. Military Farms, Lucknow.

5. In matters of transfer which constitute an incident<sup>of</sup> of service, the Tribunals are reluctant to interfere; but where an order of transfer is arbitrary, it has to be interfered with. It is not necessary to inform the employee of the reason of his transfer, but when the transfer is challenged before the Tribunal, reasons therefor must be disclosed to the Tribunal. Absence of reason constitutes arbitrariness. Likewise, existence of irrelevant reason also constitutes arbitrariness.

6. The best that can be made out from the replies of the opposite parties is that since the applicant did not agree to work on the post of Safaiwala at Dehradun, the opposite parties directed him to be transferred back to Lucknow. Whether the applicant was or was not bound to work on the post of Safaiwala, need not be decided in this case. It is enough to notice that unless the reason for which the applicant had been transferred on his representation from Lucknow to Dehradun has ceased to exist or unless the opposite parties can make out that the reason would not exist in future, the retransfer of the applicant from Dehradun to Lucknow would be arbitrary and must be struck down.

22

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- 4 -

7. This is not to say that the applicant is entitled to stay on at Dehradun. Indeed, the applicant's representations indicate, and the learned counsel for the applicant also confirms that the applicant may be transferred to any place except Lucknow. It is also mentioned that the applicant may not be posted to Jabalpur; but that is not the subject matter of this case. What I should like to say is that Lucknow is not the only place where the applicant may be transferred. It is open to the opposite parties to transfer the applicant out of Dehradun but not to Lucknow in these circumstances which have figured in this case.

8. In respect of the applicant's claim of arrears of salary, a point for decision is whether the applicant was bound to work on the post of Safaiwala or not. This question has not yet been examined by the Department. I do not think it proper, therefore, to express any opinion upon this point. The result is that the impugned order of transfer should be quashed but the question of arrears of salary should be examined by the opposite parties.

9. The application is partly allowed and the opposite parties' orders directing the applicant to be transferred from Military Farms, Dehradun to Lucknow is quashed. It will be open to the opposite parties to transfer the applicant according to law. The Opposite Parties are directed to consider the applicant's case of payment of arrears of salary for the period from March, 1988 onwards and pass suitable orders within a period of four weeks from receipt of a copy of this order. Parties will bear their own costs.

*[Signature]*

Vice Chairman

Dt: the 30th Aug., 1989.

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