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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

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O.A. No. 25 of 1991 (L)

Ravi Prakash Saxena Applicant.

Versus

Director, Directorate of Field
Publicity and others Respondents.

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Hon'ble Mr. K. Obayya, A.M.

Hon'ble Mr. J.P. Sharma, J.M.

(By Hon'ble Mr. K. Obayya, A.M.)

This application under Sec. 19 of the Administrative Tribunals Act, 1985 has been filed for quashing the order dated 11.01.1991 by which the applicant was transferred from Lucknow to Agra.

2. The respondents have filed their counter, and when the case came up for admission, both the counsel agreed that the case be heard and disposed of on merit. Accordingly, we heard the learned counsel of the parties and proceed to dispose of the case at the admission stage itself.

3. The admitted facts of the case are that the applicant was initially appointed as L.O.C. in 1965 in the Field Publicity Department, Government of India. He was promoted to the post of Project Operator and served at different places in Bihar. The designation of the post 'Project Operator' was changed to Field Publicity Assistant (F.P.A.) and in this capacity, he last served in Lucknow from 31.5.1988 till he was relieved on transfer on 23.1.1991.

4. The case of the applicant is that the post of

F.P.A. is Grade-C post, and transfers at this level are permissible only within the region and not out side the region, and that Agra, the station to which he is transferred comes within Dehradun region, as such, the transfer order is violative of transfer guidelines issued by the Government. His further contention is that he has not given option for Dehradun region. Transfers from one region to another region can be made only with the consent of the employees concerned. Therefore, his transfer without consent is arbitrary. It is also contended that the applicant will loose his seniority in the new region, as he will be placed at the bottom in the seniority list, below that of other F.P.As serving in that region. It is alleged by the applicant that the transfer order was issued with a view to harass him.

5. It is contended on behalf of the respondents that the applicant is holding a transferable post and that transfer out side the region can also be made for administrative reasons. The applicant was relieved on 23.1.1991 since the person posted in his place has joined duty. It is their further contention that the entire country has been grouped in to Zones and that U.P. comes under Zone 'E' which includes Punjab, Madhya Pradesh J & K etc.

6. We have carefully considered the contentions of both the parties and perused the guidelines. The policy guidelines for transfer issued on 31.7.1978 cover mostly cases of requested transfers from one region to other. It is also indicated that the transfer should be sparingly made and that in the case of Class-III and Class-IV employees, they should be posted nearer to their

home town to avoid hardship. Subsequent instructions issued from time to time reiterate the same position and ineffect transfers of Class-III and Class-IV employees have to be made on due consideration of all aspects. The order relating to creation of Zones dated 5.12.1990 relied upon by the learned counsel for the respondents mentions about the zones for purposes of recruitment. It is not clear; whether transfers within the zone are permissible.

7. The fact that the applicant is Class-III employee, is admitted. According to the policy guidelines, low paid employees should not be transferred to far off places. The transfers from one region to the other are permissible but only at request, since such transfers entail loss of seniority etc. Transfers outside the region can be done for compelling reasons and not in the normal course. The Supreme Court has laid down in Union of India Vs. H.N. Kartania that transfer of a Public servant made on administrative ground or in public interest should not be interfered with, ^{unless} ~~unless~~ there are strong and pressing grounds of violative of statutory rules or on the ground of malafides. We have not been shown any compelling reasons, as to why the applicant is being transferred to another region; namely Dehradun. Since this is not a transfer in the normal course, i.e. within the region, We are inclined to hold that the transfer order is open to question. Since the applicant has already been relieved and in view of the apprehension that he would loose his seniority if he joins his duty in the Dehradun region, we consider that in the interest of justice, the applicant should be

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retained within the region where he has working prior to transfer. Accordingly, we direct the respondents to consider the transfer of the applicant to any place within Lucknow region. We are informed that there is a vacancy of F.P.A. at Azamgarh. The respondents may consider transferring the applicant to Azamgarh or to any other place within the Lucknow region. The application is allowed as above. Parties to bear their costs.

Domar
Member (J)

Kirbey
Member (A)

Dated : 22.02.1991

(n.u.)