

OA-1776 of 1996

Mannu Pd. Sinha Applicant.

1/22.1.1996

Shri N.K.Lal, Registrar

The learned counsel Shri P.Kumar is present on behalf of the applicant and prays for one month's time for removal of defects. List this case on 22.2.1996 for removal of defects.

(N.K.Lal)
Registrar

MPS.

2/22.2.96.

~~Defects~~
~~22/2/96~~
~~22/2/96~~

Adjourned to 4/3/96.

3/8.3.96 Shri M.L.Paswan, Registrar I/c

~~As pointed out Shri by Shri Birendra~~
~~Singh~~ Defects have been removed. List before the Bench on 26.3.96 for admission.

(M.L.Paswan)
Registrar I/c

SKS

4/26.03.96

Counsel for the applicant : Shri D.K.Tiwarey.

Heard Shri D.K.Tiwarey, learned counsel for the applicant who has approached this Tribunal for interfering in a transfer order by which the applicant has been transferred from Gaya to Nawada, Head Office. The learned counsel for the applicant brought to my notice that the transfer was motivated by the fact of helping respondent no.7 who was earlier posted at Patna on his own request and thereafter, he was again posted to Gaya displacing the applicant who is about to retire.

in a few years (1988). The whole exercise of this transfer has been carried out by the respondents only to help the respondent no.7 to the prejudice and disadvantage of the applicant.

2. I specifically enquired whether any malafide intention was there in ordering this transfer or if the transfer was in violation of the rules. Shri Tiwary was not able to fully satisfy me on the above two points. There are a series of judgments by which Hon'ble Supreme Court has laid down the scope of judicial review of orders of transfer. It is fairly well settled on the basis of the said decisions that unless a transfer order is malafide or is made in violation of statutory provision "Tribunal cannot interfere". It has also been laid down that executive instructions are in the nature of guidelines. They do not confer legal and enforceable right. In Union of India Vrs. S.L. Abbas, reported in 1993 (25) ATC P.844, Hon'ble Supreme Court has laid down that "The Tribunal is not an appellate authority which can substitute its own judgment to the judgment of the administrative authorities." Interference with an intra vires bonafide order of transfer therefore would be in excess of the jurisdiction of the Tribunal. In a more recent judgment, in the case of Union of India Vrs. Ganesh Dass Singh, reported in 1995 SCC (L&S) P.1142, the Supreme Court has held that "Even when a transfer was made in colourable exercise of power, interference is not justified."

3. In view of these pronouncements of the Hon'ble Supreme Court, I find it ~~extremely~~ difficult to admit his case or even to give any relief to the applicant.

The O.A. is accordingly dismissed at the admission stage itself.

N.K.Verma
(N.K.Verma)
Member (A)