

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A

O.A. NO.: 271/96

DATE OF DECISION : 13 MAY-1996

D.N.PASWAN. : APPLICANT.

Vrs.

UNION OF INDIA & ORS. : RESPONDENTS.

COUNSEL FOR THE APPLICANT. : SHRI B.K.SINGH.

COUNSEL FOR THE RESPONDENTS : NONE.

C O R A M

HON'BLE MR. N.K.VERMA, MEMBER (ADMINISTRATIVE)

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ORDER DICTATED IN OPEN COURT

HON'BLE MR. N.K.VERMA, MEMBER (A) :

In this O.A. the agitation is against the transfer of the applicant from Patna to Bhagalpur as per Annexure-4 by which the applicant has been transferred (to) Bhagalpur in a one-to-one interchange of place. This order is dated 20.12.1995 which was ordered to be kept in abeyance by a telegraphic instructions issued by the Executive Engineer dated 20.01.1996. The endorsement of this telegraph reads that this telegraphic order was passed as per the direction given to the Executive Engineer on 20.01.1996. The Superintending Engineer concerned was requested not to implement the transfer till the further orders. Subsequently, by an order dated 08.03.1996 the reliever for the applicant was got relieved with a direction that the applicant should also be relieved simultaneously so that the orders are implemented. . Thereafter, the

applicant has sent one representation to the Chairman of the Central Water Board, New Delhi, representing against the transfer order. During the course of arguments, Shri Singh brought to my notice that this transfer order is arbitrary and smacks of malafide. The applicant was brought to Patna with his own request in 1992 at his own cost on compassionate grounds. He has put in 3½ years of service at Patna. Thereafter, as per guidelines available with the Central Water Board that the persons with longer stay should be transferred and not the applicant, the transfer order has been passed only to oblige the other person indicated in the transfer order.

2. The Hon'ble Supreme Court in a number of cases held the view that ~~it~~ it is fairly well settled on the basis of the Supreme Court decisions that unless a transfer order is malafide or is made in violation of statutory provisions, "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 rights. In Union of India vrs. S.L. Abbas, (1993) 25 ATC 844, Supreme Court has laid down that "The Tribunal is not an appellate authority which can substitute its own judgment to the judgement 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 Shilpi Bose vrs. State of Bihar, (1991) 17 ATC 935, Hon'ble Supreme Court laid down "Courts should not interfere with the transfer orders which are made in public interest and for administrative reasons unless the transfer orders are made in violation

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of any mandatory statutory rule or on the ground of malafide. A Government servant holding transferable post has not vested right to remain posted at one place or the office, he is liable to be posted from one place to the other. Transfer order issued by the competent authority do not violate his legal rights, even if a transfer order is passed in violation of executive instructions or order, the courts ordinarily should not interfere with the order."

3. In view of this specific observations and rulings of the Hon'ble Supreme Court, the case does not warrant any interference. The applicant has not waited for the outcome of his representation to the Chairman of the Central Water Commissions. In view of these, the O.A. is not maintainable and is accordingly dismissed at the admission stage itself.


(N.K. VERMA)
MEMBER (A)