

In the Central Administrative Tribunal,
Patna Bench, Patna.

Req. No. OA- 493/96

Chandra Deo Rawani vs. Union of India & Ors.

1./ 14.10.96.

Heard Shri D. Choudhary, the learned counsel appearing on behalf of Shri Chandra Deo Rawani, Drilling Technician III working under Project Manager, MGCL, Ranci who challenged the validity of the impugned order of transfer dated 10.7.96 as at Annexure-1 on the ground that the transfer order was issued with malice and in order to harass the applicant and also on the ground that some employees who stayed there in the station for more than 20 years have not been transferred but the applicant has been transferred without considering his hardship which is likely to be faced by the applicant due to this impugned order of transfer.

2. I have gone through the application and also heard submissions made by the learned counsel for the applicant. It is now well settled that transfer is an ordinary incidence of service and the Courts should not interfere with transfer order which was passed by the authorities in Public interest. In view of the various decisions of the Hon'ble Apex Court I find that the judicial review in respect of the transfer by the Tribunal or by Court has been rather circumscribed. The Court or the Tribunal should not interfere with the order of transfer passed

in public interest unless it is proved by the applicant that the impugned order of transfer was issued with some extraneous consideration or with mala fide or arbitrarily. In view of the aforesaid circumstances, I do not find any reason to entertain the application of the applicant on the grounds enumerated in the application. However, it cannot be overlooked that the right of representation is granted by the Constitution and it is obligation of the authorities to decide the representation on merit by applying their open mind to see whether the applicant under transfer suffers from undue hardship or not. It is found from record that the applicant made representation before the competent authority, which was turned down verbally without assigning any reason. I am of the opinion that the Govt. or Public authority ^{or writing only} should act ~~fairly~~ and any verbal assurances in official capacity cannot be given effective for decision. So I think that the matter can be disposed of by giving directions upon the respondent No. 3, the Dy. Chief Drilling Engineer, MECL, Ranchi to consider the representation of the applicant and to decide the representation on merit and ^{within 3 (three months from today)} reason thereof may be communicated to the applicant if any decision is made on the representation by the respondent No. 3, and the petitioner is also directed to approach the respondent

OA - 493/96

No. 3 by a fresh representation with copy of this order for getting appropriate relief in view of the observations made hereinabove. I find that the impugned order of transfer had been given effect to w.e.f. 20.7.96 but no averment has been made in the petition as to whether the applicant was relieved from the station on the strength of the impugned order of transfer. In view of this no stay order in respect of the impugned order of transfer dated 10.7.96 is passed.

3. This application is disposed of accordingly.

/CBS/


(D. Purkayastha)
Member (J)