

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 66 of 2006.

[Patna, this Monday, the 30th Day of January, 2006]

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C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

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Puran Chandra Varma, S/o Late Ram Chandra Prasad Varma, resident of Speaker House-1, Mohalla-Naya Tola, District- Muzaffarpur [Bihar], at present posted as Assistant Superintendent, National Sample Survey Organisation [FOD], Ministry of Statistics Programme Implementation, Chanakya Place, Hajipur Road, Muzaffarpur.APPLICANT.

By Advocate :- Shri S.Kumar.

Vs.

1. The Union of India through the Secretary, Ministry of Statistics Programme Implementation, Government of India, Sardar Patel Bhavan, Sansad Marg – 110 001.
2. The Joint Secretary. Ministry of Statistics Programme Implementation, Government of India, Sardar Patel Bhavan, Sansad Marg, New Delhi- 110 001.
3. The Additional Director General, National Sample Survey Organisation [FOD], Ministry of Statistics Programme Implementation, East Block No.6, Level – 507, R.K.Purak, New Delhi- 110 066.
4. The Under Secretary, Department of Higher and Secondary Education, Ministry of Human Resource and Development, Shastri Bhavan, New Delhi-110 001.
5. The Assistant Director, National Sample Survey Organisation [FOD], Ministry of Statistics Programme Implementation, Chanakya Place, Hajipur Road, Muzaffarpur.RESPONDENTS.

By Advocate :- Shri R.K.Choubey, ASC.O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Heard learned counsels for the applicant as well for the respondents on admission. The applicant, working as Assistant



Superintendent in National Sample Survey Organisation [FOD] at Muzaffarpur was offered to exercise the option for departmental candidates for absorption in Sub-ordinate Statistical Service which he accepted in the year 2004 and gave preference for his posting at the following three places :-

- i] Muzaffarpur.
- ii] Darbhanga.
- iii] Motihari.

He had given such option as he was suffering from eye and other diseases such as diabetes and hyper-tension for which he was undergoing treatments. By order dated 24.06.2005 he was transferred to Ministry of Human Resource Development, New Delhi which is the impugned order. The applicant represented before the respondent no.3 for stay in view of his difficulties, which was turned down and thereafter respondent no.5, vide letter dated 21.09.2005, had relieved him from Muzaffarpur and directed him to handover charge. The applicant has prayed for quashing of the transfer order dated 24.06.2005.

2. In course of argument, the learned counsel for the applicant on query of the Tribunal admitted that the applicant was liable to be transferred, being in the service of the Central Government. However, learned counsel when asked as to how the transfer order was bad in law, i.e., whether it was a malafide exercise of power, or was recorded by an officer not competent to transfer him, or was against the extant rules, the learned counsel submitted that it was malafide because the transfer was made to accommodate



one Mahesh Ram so that he might be kept in Muzaffarpur. However, this also was argued that another post was going to be vacant on retirement of one S.C.Sharma on 30.04.2006 in which post he could have been accommodated. No other point has been urged to show the malafide intention of the respondents.

The argument itself suggests that this transfer could not have been an outcome of malafide ^{intention} because if it was to accommodate Mahesh Ram, the respondents could have waited for only some time more. In any case, the authority competent to transfer an employee has to exercise his discretion in the interest of administration and in that view of the matter he may want to place a particular employee to a particular post which can ^{hardly} be termed as ^{malafide} malafide.

3. Learned counsel also submitted that some other officers were also available at Muzaffarpur for transfer who were not touched. This argument has been mentioned only to be rejected because in a multi-person organisation if one is transferred he can always point out others who were not transferred.

4. In so far as the medical ground is concerned, this ground is not understandable. If the applicant is ailing then what better place could be for better treatment than New Delhi where he has been transferred. It is nobody's case that comparatively better treatment is available at



Muzaffarpur, Darbhanga or Motihari.


5. Moreover, the applicant had been transferred by order dated 24.06.2005 and thereafter he represented before the respondents. Learned counsel in course of arguments admitted that his representation was rejected though a copy of the order was not served upon him, whereafter he was also relieved from his post vide order dated 21.09.2005. Even when the applicant was relieved from his post on 21.09.2005 he obviously felt no urgency then as he has filed this application on 09.01.2006.

6. The learned counsel also argued that the applicant has not been paid TA advance and pay advance. When asked if he had applied for those advances, the learned counsel admitted that the applicant has not applied for those, further ^{submitting} that he was given no time for that. This again is spacious argument as he was transferred in June, 2005 and was relieved in September, 2005, still he submits that he was not given enough opportunity to apply for those advances.

7. Learned counsel for the respondents points out Annexure-6 which is order dated 21.09.2005 through which his prayer for stay was rejected and he was relieved w.e.f. that day. This order clearly states that as per rules, the applicant might avail joining time, pay advance, etc. Therefore, on this count also the respondents cannot be faulted.

8. It is well settled that unless sufficient grounds are shown, the Court/Tribunal should not interfere in an order of transfer of an employee who was on a transferable job, transfer being a necessary incidence of service in such a case.

9. I find no merit whatsoever in this application, to be admitted.
This application, therefore, is dismissed.



[P.K.Sinha]/VC

skj.