

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

O.A. No. 567 of 2005

Date of order : September 16th, 2005

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

Shanti Tigga, W/o Shri Nirajan Tigga, Principal, Kendriya Vidyalaya, Indian Oil Corporation, Township Begusarai, Bihar, residing in quarter No. C-1/3, Refinery Township, P.S. And District Begusarai.

....Applicant

By Advocate : Shri A.K. Singh

Vs.

1. The Union of India through the Secretary, , Human Resources Development Department, Govt. of India, 301, C-Wing, Shastri Nagar, New Delhi. 1
2. Shri Ranglal Jamuda, I.A.S., The commissioner, Kendriya Vidyalaya Sangathan, (H.Q), 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi. -16.
3. Shri Rajvir Singh, Deputy Commissioner (Pess), K.V.S., 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.-16
4. Shri Sudhir Modawal, Assistant Commissioner, K.V.S. , Patna Region, Patna, Bihar.
5. The Principal, Kendriya Vidyalaya, I.O.C., Barauni, Barauni Refinery Township, Begusarai.
6. The Chairman cum E.D. Barauni Refinery, Vidyalaya Management Committee, K.V., IOC, Barauni Refinery, Begusarai.

....Respondents

By Advocate : Shri G.K. Agarwal



ORDER

By Sadhna Srivastava, M (J) :-

By this Original Application, the applicant has challenged the order of transfer dated 18.8.2005 (Annexure A/8) by which the applicant has been transferred from the post of Principal, Kendriya Vidyalaya , IOC, Barauni to Kendriya Vidyalaya , Coach Bihar in public interest.

2. The facts, in brief , are that the applicant was appointed as Trained Graduate Teacher (Maths) in Kendriya Vidyalaya (K.V in short) and was posted in K.V. Maligaon, Guwahati from 19.3.1990 to 15.12.1993. Thereafter, she was transferred to K.V., Narangi, Guwahati and remained posted there as PGT (Maths) from 16.12.1993 to 26.X.04. On 28.10.04 she was transferred to K.V. Barauni and after expiry of 10 months, the applicant has been transferred from K.V, Barauni to K.V. Coach Bihar vide order dated 18.8.2005.

3. The applicant's case is that she was transferred to Barauni on 28.10.2004 and has not completed minimum tenure of three years at K.V. Barauni, she cannot be transferred to Coach



Bihar within a period of one year. The transfer order is challenged on the ground that the order is punitive in as much as the applicant had made complaint against the staff of K.V to respondent No. 6 regarding their obstruction in smooth functioning of Vidyalaya. Respondent No. 4 was also informed about this complaint. Respondent No. 6 had recommended for transfer of three staff (one Librarian and two Teachers). It is alleged in the OA that respondent No. 1 to 4 were annoyed and instead of taking action against the ~~errring~~ staff of the School, transferred the applicant from K.V., Barauni to Coach Bihar within a span of 10 months. Further, it is alleged that there was no complaint against the applicant.

4. The respondents in reply submit that the applicant was transferred in public interest and the transfer was ~~ordered~~ in accordance with the guidelines as applicable to the applicant. The respondents submit that as Head of the Institution, the applicant could not manage the administrative, financial and academic affairs of the Vidyalaya properly, resulting in indiscipline amongst the staff and loss of studies. The competent authority having taken into account her lack of effective control has

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transfer the applicant vide order dated 18.8.2005 to serve the larger public interest.

5. The impugned order, in the present OA, has been passed in the public interest by which applicant has been transferred from K.V., IOC, Barauni Refinery, Begusarai to K.V. Coach Bihar. The applicant's case is that she has not completed her tenure at Barauni as per the guidelines has no merit. The guidelines are not mandatory in law. No doubt, it has to be generally followed but an authority competent to transfer, may transfer an employee who has not completed his/her tenure, if exigencies of service or public interest requiring or even on administrative grounds. The respondents have indicated as to why and under what circumstances the transfer order dated 18.8.2005 was considered proper in the public interest. The Tribunal need not go into the question as to whether the transfer is in the interest of public service. That would essentially require factual adjudication and invariably depend upon the facts of the case concerned. No government servant or employee of an undertaking has any legal right to be posted at any particular place or place of his/her choice. Since transfer is not only



an incident but a condition of service, necessary too in public interest and efficiency in the public administration. It is settled law that unless an order of transfer is shown to be an outcome of malafide exercise or stated to be in violation of statutory provision prohibiting any such transfer, the court or the Tribunals normally cannot interfere. There is no evidence, even *prima facie*, to show that the impugned order of transfer suffers from malafide or it is punitive in nature. If the competent authority has found it proper for smooth running of administration or in public interest to transfer the applicant to K.V. Coach Bihar, the order cannot be termed as punitive merely on the ground that the applicant has not completed her tenure of three years.

6. The respondent No. 4 has been impleaded by name. However, there is no allegation in OA of malice against him. It was only argued at the bar that the order of transfer suffers from malice. But I do not find any ground to hold that there was any malice on the part of the respondent No. 4 (impleaded by name).

7. The Hon'ble Apex Court, in the case of State of U.P. Vs. Siya Ram, 2004 (4) ESC (S.C) 804, has held that unless an



order of transfer suffers from malafide or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunal normally cannot interfere with such orders as a matter of routine, substituting their own decision for that of the employers.

8. Resultantly, the OA is devoid of merit, hence, the OA is dismissed. No order as to costs.


[Sadhna Srivastava] M [J]

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