

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 114/99

Date of Decision: 1/4/99

Mrs. Sneha Anjesh Gupte

Applicant.

Shri P.J. Pawar.

Advocate for
Applicant.

Versus

Union of India & Two Ors.

Respondent(s)

Shri V.G. Rege

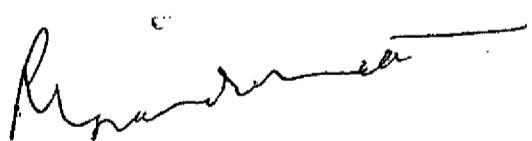
Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

Hon'ble Shri.

- (1) To be referred to the Reporter or not? *NO*
- (2) Whether it needs to be circulated to *NO* other Benches of the Tribunal?


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO: 114/99.

DATED THE 1st day of APRIL, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Mrs. Sneha Anjesh Gupte,
Kendriya Vidyalaya,
Southern Command, Dehu Road,
Pune-1
residing at 16/8, Sandesh Society,
585 Salisbury Park,
Market Yard,
Pune-37.

... Applicant.

By Advocate Shri P.J.Pawar.

v/s.

1. The Union of India,
through Sr. Administrative Officer,
Kendriya Vidyalaya Sangathan,
New Delhi.

2. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
Bombay I.I.T, Powai,
Bombay - 76.

3. Principal,
Kendriya Vidyalaya Sangathan,
Southern Command,
Dehu Road,
Pune-1.

... Respondents.

By Advocate Shri V.G.Rege.

I O R D E R I

[Per Shri R.G.Vaidyanatha, Vice Chairman]

This is an application challenging the order of transfer dated 4/2/99. Respondents counsel has orally opposed the admission of application and granting of any interim relief.

Heard both the counsels regarding admission and grant of interim relief.

2. The applicant who is working as a UDC in the Kendriya Vidyalaya at Pune, vide the impugned order she has been transferred from Pune to Varangaon. Being aggrieved by

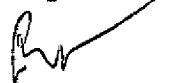


order of transfer, the applicant has approached this Tribunal challenging the order of transfer on many grounds.

3. The learned counsel for respondents orally submitted that there is no time to file reply and therefore he is orally opposing the admission of the application. He submitted that the transfer is in public interest and should not be interfered with by this Tribunal.

At the time of arguments, the learned counsel for applicant pressed two grounds, namely that the applicant's transfer is not in public interest and therefore it is liable to be quashed. The other ground pressed by him is that the applicant has some personal difficulties and medical problems and therefore on that ground the order of transfer should not be given effect to. On the other hand, the learned counsel for respondents submitted that the order of transfer is purely in public interest, since many points came to light during internal audit and therefore it has been decided to transfer the applicant so that the records are not tampered with; that on a matter like Transfer a Court or Tribunal should not interfere.

4. There is no allegation that the order of transfer is in violation of any statutory rule or it suffers from malafides. It is now fairly well settled by number of decisions of Apex Court that order of transfer can be challenged successfully only on two grounds, namely order of transfer is in violation of statutory rules or it suffers from malafides. Personal grounds or personal difficulties are no grounds for a Court or Tribunal to interfere with transfer but that grounds may be placed before the appropriate Authority by the applicant. Supreme Court has decided in number of decisions that transfer guidelines are also not meant for being implemented by Courts or Tribunals but they are meant to be obeyed by Competent Authority or if not the matter can be agitated before the higher Authority (vide



1. Union of India v/s. S.L.Abbas

AIR 1993 SC 2444

2. State of M.P. v/s. S.S.Kourav

AIR 1995 SC 1050

3. Mrs.Shilpi Bose v/s. State of Bihar

AIR 1991 SC 532)

5. In view of the settled legal position as mentioned above on the basis of decisions of Supreme Court, I find that there is no merit in the application as far as challenge on the ground of personal difficulties and medical problems. Even now it is open to the applicant to make a representation to the Competent Authority or higher Authority through proper channel pleading personal difficulties and it is for the authority to apply his mind and take a decision, but it is no ground for this Tribunal to interfere with the order of transfer.

6. As far as the argument that the order of transfer is not in public interest, we find that in the impugned order of transfer itself, it is clearly mentioned that the order of transfer is in public interest. It is well settled by number of Supreme Court decisions that Courts or Tribunals cannot sit in appeal over orders of transfer and that they should not examine as to how the order of transfer came to be made. Even otherwise, there is some material on record to show that the transfer order has been made purely in public interest. The applicant is working as UDC in Accounts Branch. The internal audit has brought out that a mis-appropriation of Rs.1,78,000/- has occurred. It is noticed that there has been tampering of documents and missing of vouchers. The applicant has been questioned during the internal audit. The learned counsel for respondents even made a submission that the matter is being referred to CBI for proper investigation. If/these circumstances, the respondents find it desirable to keep the applicant in a particular

place since the matter is being examined departmentally to find out whether the applicant is responsible for the irregularity, etc and the matter might have to be referred to Police, etc and in such circumstances, the administration feels that the applicant should be shifted to some other place, it is not for this Tribunal to interfere. By any stretch of imagination, it cannot be said that the order of transfer is not in public interest. On the basis of the said allegations which have come to surface in the internal audit report, the administration could have kept the applicant under suspension, but instead of that, by taking a humanistic approach, the administration thought fit to transfer the applicant to a different place. Hence, it cannot be said that the order of transfer is not in public interest. Therefore, in my view no case is made out to interfere with the order of transfer but I grant liberty to applicant to make proper representation to Competent Authority/Higher Authority pleading personal problems and medical problems and it is for the administration to decide whether to cancel the transfer order or to modify the transfer and give her a posting elsewhere as it deems fit or not. But certainly these grounds are not sufficient for a Court or Tribunal to interfere with the order of transfer.

7. I am also told that the applicant has been relieved from the present post on 10/2/99 prior to filing of the present application. Since, the OA itself is being disposed of MP-209/99 does not survive and hence stands disposed of.

8. In the result, the application is rejected at admission stage. No costs.


R.G. Vaidyanatha

(R.G. VAIDYANATHA)
VICE CHAIRMAN