

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH**

**ORIGINAL APPLICATION NO.:** 171 of 2000.

Dated this Thursday, the 13th day of April, 2000.

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

Sharad Kumar S. Verma,  
70, Karve Nagar,  
Wardha Road,  
Nagpur - 440 025.

... Applicant.

(By Advocate Shri S.S. Karkera)

**VERSUS**

1. Union of India through  
The Secretary,  
Department of Posts,  
Dak Bhavan, Sansad Marg,  
New Delhi.

2. The Dy. Director General (P.A.F)  
O/o. the Director General,  
Department of Post, Dak Bhavan,  
Sansad Marg, New Delhi.

3. Director (P.A.-I),  
O/o. the Director General,  
Department of Post, P.A. Wing,  
Dak Bhavan, Sansad Marg,  
New Delhi.

4. Director of Accounts (Postal),  
Civil Lines, Nagpur - 440 001.

5. The Dy. Director,  
Postal Accounts,  
Bhopal (M.P).

... Respondents.

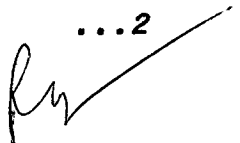
(By Advocate Shri R. S. Sunderam)

**OPEN COURT ORDER**

**PER** : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application filed by the applicant challenging the order of transfer dated 09.03.2000 and modified by order dated 14/16.03.2000. The respondents have filed reply opposing the application. The applicant has filed M.P. No. 282 of 2000

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Sharad Kumar S. Verma, Applicant.

Shri S. S. Karkera, Advocate for the applicant.

VERSUS

Union of India & Others, Respondents.

Shri R. S. Sunderam, Advocate for the Respondents.

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

- (i) To be referred to the Reporter or not ? 74
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library. yet

  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

OS\*

calling the respondents to produce documents for inspection of the Tribunal. Today, the Learned Counsel for the respondents has placed before me the concerned file. I have heard Mr. S.S. Karkera, the Learned Counsel for the applicant and Mr. R. S. Sunderam, the Learned Counsel for the respondents on the question of admission and grant of interim relief.

2. The applicant is a Senior Accounts Officer working at Nagpur. He has been transferred by the impugned order to Bhopal. Subsequently, the order is modified and he now stands transferred to Indore. According to the applicant, he has been transferred due to complaints from an unrecognised SC/ST employees association. There was some recruitment of candidates by select committee in which applicant was a Member. The SC/ST association was not happy about the selection of candidate and started making number of complaints/allegations against the applicant. Mr. B.M. Meshram, who is the Secretary of the unrecognized association had even given a copy of the complaint to the Member of the Parliament, who forwarded the same to the Hon'ble Minister and thereby political pressure has been put to transfer the applicant. It is also alleged that the order of transfer is malafide.

3. The respondents while denying the allegation of malafide and political pressure, have justified the order of transfer purely in administrative interest. It is pointed out that there was number of allegations against the local administration, of which the applicant is also one. The atmosphere of the local office at Nagpur was not conducive for the proper and smooth working of the office. Number of instances are given to show

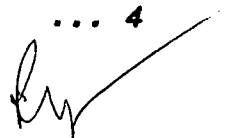
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that everything was not well in the office at Nagpur. Even the Director, who is the Head of the local office at Nagpur, had to be repatriated to his parent department and a new Director had to be appointed. Similarly, in order to create a proper and congenial working atmosphere at Nagpur, both in the interest of employees and pensioners who are to be served by this local office, it was thought necessary to transfer the applicant from Nagpur and accordingly, he has been transferred.

4. The Learned Counsel for the applicant contended that the order of transfer is due to political pressure, which is malafide and punitive in nature. But the respondents' counsel, while denying those allegations submitted that the order of transfer is purely in administrative interest in order to create congenial atmosphere at Nagpur office.

5. I have perused all the materials placed on record by both counsel and the concerned file shown by the Learned Counsel for the respondents.

6. It is true that there was some allegation about the recruitment made by the select committee to which applicant was a Member. There were no personal allegations against the applicant but the allegations were against the Committee. Then in addition to this, I find from the file produced that there was a hostile atmosphere at Nagpur. There was dharna and strike even in December, 1999 and January, 2000. I find that an official had given notice for hunger strike and dharna in December itself, though I am told it did not take place. There was a strike called on 06.01.2000 in which the general candidates of the local



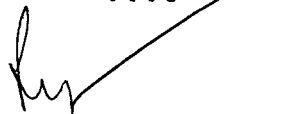
office participated but the SC/ST candidates did not participate. Then it is brought to my notice that on 12.01.2000 there was quarrel and fight among officials in front of the local office at Nagpur, including abusive speech and physical assault. I am told that there <sup>were</sup> ~~was~~ complaints and counter complaints by general candidates on the one side and SC/ST candidates on the other. There are also some other allegations of <sup>in bad administration</sup> ~~malediction~~ in the local office. Now the matter has been referred to the vigilance for enquiry. The Vigilance Section of the administration has taken up the local enquiry and now it is in the midst of enquiry. In these circumstances, in order to have a congenial atmosphere, if the administration feels that an official had to be transferred, it cannot be said that the order of transfer is punitive or malafide. The object of the Head of the Department is to see that the local office at Nagpur runs smoothly and serves the public, for whose benefit the local office is established. The reply of the respondents show that the local office is one of the biggest office in India which is to serve the pensioners and to attend to their problems like pension, gratuity and other retiral benefits. If there is day to day quarrel in the office and there is no congenial atmosphere in the office, there will be no work culture in the office, as a result, the administration will come to a standstill. Some officers have been kept under suspension and against some charge-sheet has been issued. If in these circumstances the Director has been transferred and the applicant, who is a Sr. Accounts Officer, is transferred, it cannot be characterised as punitive or malafide.

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The argument that transfer of an official when some complaints are received amounts to punitive transfer, cannot be accepted. In this view, I am fortified by a judgement of a Division Bench of Bombay High Court in the case of Arun Damodar Veer V/s. State of Maharashtra & Others reported in 1999 (4) SLR 125 where the High Court has held that if an official is transferred in the interest of efficient administration and for public good when there are some complaints, it will not amount to punitive transfer.

I am also not impressed by the argument of the Learned Counsel that it is a case of political pressure for transfer of the applicant. It is true that the Member of the parliament has written a letter to the Hon'ble Communication Minister. Copy of the letter is at page 16 of the Paper Book and it is dated 11.02.2000. The Member of the Parliament has not put any pressure or influence but only stated that there are some allegation against the local administration and the matter may be looked into. The Member of the Parliament has every right, being a local representative, to make such a representation. It does not give any indication that he is specially interested in anybody. He has just forwarded the complaint by Mr. B. M. Meshram and asked the Hon'ble Communication Minister to look into the allegation and take action according to law. This cannot be called as political pressure. Even otherwise I have seen from the materials on record that the atmosphere in the local office is not congenial and in order to create a proper climate and proper atmosphere in the working of the office, if the administration feels that some officers have to be transferred and have been transferred, it cannot be characterised as punitive or malafide.



The Learned Counsel for the applicant invited my attention to two decision of the Apex Court, which are - 1998 (1) SLJ SC 162 .. Arvind Dattatraya Dhande V/s. State of Maharashtra & Others and 1997 SCC (L&S) 166 .. Najamal Hussain Mehadi V/s. State of Maharashtra & Others, where the Supreme Court has held that the order of transfer is bad being malafide. The question of malafide is always a question of fact depending upon the peculiar facts and circumstances of each cases. The Supreme Court has gone into the facts of those cases and on facts, has come to the conclusion that it is a case of malafide transfer. Here, I have gone through the facts of the case and find that the order of transfer has been done in order to have a proper working atmosphere. Each case depends on its own facts and circumstances. Therefore, in the facts and circumstances of the case, I am not inclined to accept the contention of the applicant that his transfer is punitive or malafide.

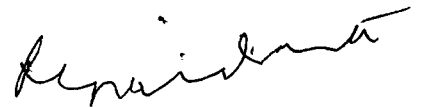
Having seen the hostile atmosphere prevailing at Nagpur office, I feel it is a fit case in which I feel the applicant himself should have asked for transfer from this place and should not insist to continue there. Advisedly, I am <sup>not</sup> referring to some of the allegations made in the pleadings, since the matter is subject to vigilance enquiry and the enquiry is in progress. Any opinion expressed by me may prejudice either the applicant or administration. Therefore, advisedly I do not want to touch those points as the matter is under enquiry by the Vigilance Enquiry.



7. After going through the materials on record, I am not inclined to admit the application and, therefore, the application has to be rejected and the interim order needs to be vacated.

At this stage, the applicant's counsel makes a submission that applicant may be retained at Nagpur atleast till the end of May, which is seriously opposed by the Learned Counsel for respondents. Since I have reached the conclusion that the order of transfer is in administrative interest, it is neither in the interest of the administration or in the interest of the applicant to allow him to continue at Nagpur. Hence, the oral request made by the applicant's counsel is rejected.

8. In the result, the application is rejected at the admission stage. M.P. No. 282 of 2000 is allowed. The ex-parte interim order dated 21.03.2000 is hereby vacated. No order as to costs.



(R.G. VAIDYANATHA)  
VICE-CHAIRMAN.