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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA No. 970/92 : Date of order 4.5.95
(OA no. 259/91)

Brij Singh Rathore : Applicant

V/s

Union of India & Others : Respondents

For the applicant : Mr. Surendra Singh

For the respondents : Mr. M. Rafiq

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Hon'ble Mr. O.P. Sharma, Member (Administrative)

Hon'ble Mr. Rattan Prakash, Member (Judicial)

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Brij Singh Rathore has prayed that order (Annexure A-1) dated 19.6.91, by which he was transferred from Jaipur to Gauhati, may be quashed and the respondents may be further directed not to transfer the applicant in violation of instructions contained in Annexure A-4.

2. The applicant's case is that he was appointed as Store Keeper in 1969 in the Central Ground Water Board and posted at Jodhpur. He was posted in 1980 to Jaipur as Store Superintendent, where he continues to be posted at present. One Shri P. Saran was appointed as Store Keeper in the Department in 1974 at Jaipur. Many complaints were received against him and there was a vigilance case against him. Shri Saran was transferred to Gauhati in 1986. Now the applicant has been transferred to Gauhati vice Shri Saran and Shri Saran has again brought back to Jaipur vide order dated 19.6.91 (Annexure A-2). This order is mala fide and has been passed just to accommodate Shri Saran. The applicant has not been relieved from Jaipur and Shri Saran has not yet joined at Jaipur. The applicant has personal difficulties in leaving Jaipur and joining a distant place like Gauhati.

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There are instructions contained in Annexures A-3 and A-4 that normally Group 'C' and Group 'D' employees should not be transferred and in any case not to distant places. The applicant's home town is at Jodhpur and there are no exceptional reasons for the respondents to transfer the applicant to such a distant place. The Organisation in which the applicant is working is an industry and his services are governed by Industrial Disputes Act. Section 9A thereof puts a ban on changing the conditions of service of a workman without giving notice in the prescribed manner. This has not be done in the applicant's case.

3. The respondents in their reply have stated that there is no vigilance case against Shri Saran. As a policy matter, they are required to transfer back an employee who remains posted in the North East Region for a period of two years. Shri Saran has already completed more than four years of service in the North East Region and he has asked for his transfer to Jaipur. The applicant has remained posted at Jaipur since 1980. Efforts are made to transfer Group 'C' and Group 'D' staff near their home town. This can be done to the extent possible. There is no vacancy of Store Superintendent at the nearest place to the home town of the applicant. They have added that no statutory instructions had been violated in effective transfer of the applicant. They have denied the allegation of mala fides in transferring the applicant.

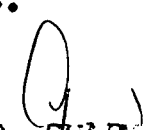
4. We have heard the learned counsel for the parties and have gone through the records.

5. The Tribunal had granted stay against the transfer order of the applicant to Gauhati by interim direction issued on 3.7.91. Since then the applicant has remained posted at Jaipur. The position is now is that the applicant has remained

posted at Jaipur for the last about 15 years. We have gone through Annexures A-3 and A-4 relating to transfer norms or guidelines. These do not show that these are any statutory rules to be followed in all circumstances. Rather these are only guidelines to be observed in general. As far as Shri Saran's case is concerned, he had to be transferred back from North East Region on completion of a specified period of posting there. The applicant cannot allege any discrimination against himself because even on the date on which the transfer orders were passed in June, 1991, he had remained posted at Jaipur for about 11 years. The learned counsel for the applicant during the arguments strongly alleged that the applicant's transfer had been effected for mala fide reasons with a view to accommodating Shri Saran. However, neither is Shri Saran a party to this application nor has the applicant impleaded any officer as respondent by name who can be ~~have~~ alleged to acted in a mala fide manner with a view to harming the interests of the applicant. Also the allegations of mala fides are not specific. In the circumstances, the allegations of mala fides are not tenable. Since the transfer is not as a result of any change in the service conditions of the applicant, it is not necessary for us to consider the question whether the Industrial Disputes Act is applicable to the applicant's case or whether any Section thereof has been violated in effecting the transfer.

6. We do not find any merit in this application, and it is, therefore, liable to be dismissed. The learned counsel for the applicant prayed that the applicant may be allowed to complete the current academic term for his children upto 30th June at Jaipur. We accept this prayer. While dismissing the OA, we direct that the applicant may be relieved from his duties on 1st July, 1995. No order as to costs.


(RATTAN PRAKASH)
MEMBER(J)


(O.P. SHARMA)
MEMBER(A)