

AT HYDERABAD

(149)

ORIGINAL APPLICATION NO.926/91

DATE OF JUDGEMENT: 28th AUGUST 1992

BETWEEN

File 28-8-92

K. Ramamurthy

.. Applicant

A N D

1.Union of India rep by
Agricultural Marketing Adviser,
Ministry of Agriculture &
Rural Development
Dte of Marketing & Inspection
Faridabad

2.Joint Agri.Marketing Adviser
Dte of Marketing & Inspection
Branch Head Office
New Secretariat Building,
Nagpur

3.Dy.Agricultural Marketg.Adviser
South Central Region
Kothapeta Guntur.

4.K.Umakantha Rao
Driver
Dte of Marketing & Inspection
Branch Head Office
Nagpur

.. Respondents

Counsel for the Applicant :F Mr. T. Jayant

Counsel for the Respondents :: Mr N.V.Ramana ,CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

T. Jayant

(50)

JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY
HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This is an application filed under Section 19 of the Administrative Tribunals Act, to set aside the order dated 6.9.91, passed by the respondents transferring the applicant, from Guntur to Nagpur and pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief may be stated as follows:

2. The applicant joined as Driver in the Directorate of Marketing & Inspection (DMI) on 26.6.61. His services were regularised w.e.f. 26.6.61. He was made ~~permanent~~ permanent on 1.1.67. He is the senior most driver in the Department. He has put in more than 30 years of service. The applicant is due to retire from service within 2 1/2 years.

3. The applicant received his transfer order dated 6.9.91 from the Joint Agricultural Marketing Adviser DMI, Branch Head Office Nagpur who is the second respondent herein, by which the applicant was transferred from Guntur to Nagpur, and one Sri K. Umakantha Rao, Driver and 4th respondent herein ~~was~~ ^{at his request} transferred to Guntur from Nagpur ^{the} in place of the applicant. ~~The~~ said order states that the 4th respondent ~~has to be~~ ^{that the 4th respondent} relieved from Nagpur and ~~he~~ will relieve the applicant. The applicant had put in representations ^{to the competent authority} to retain him at Guntur itself by cancelling the said transfer order. As no reply was received from the respondents, the applicant had approached this Tribunal for the relief as already indicated above.

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Counter is filed by the respondents opposing this OA.

4. From the said transfer order, it is evident that the 4th respondent had been transferred from Nagpur to Guntur on his own request, whereas, the applicant had been transferred ⁱⁿ ~~on~~ 'public interest.' During the course of hearing ^{of} this OA, it came to light that ever since the applicant joined his services, he ~~XXXXX~~ ^{that is} has been working in Guntur only for the past 30 years. The 4th respondent herein is also a native of Guntur. The 4th respondent had undergone transfer from Guntur to Nagpur, from Nagpur to Guntur, from Guntur to Faridabad and from Faridabad to Nagpur. As already pointed out, the applicant herein has not faced any transfer for the past 30 years. Further, during the course of hearing this OA, ⁴ material was placed before us to show that the 4th respondent, as already pointed out, who is a native of Guntur like that of the applicant, had put ⁱⁿ a request for his transfer from Nagpur to Guntur on the ground of ~~XXXXX~~ mental sickness of his wife. The Department after being satisfied about the genuineness of his claim, and also in public interest has effected ~~the~~ transfer of the applicant as well as of the 4th respondent.

There is only one post of Driver in the office of the respondents in Guntur District.

~~As~~ As already pointed out, as the Department was satisfied ~~of~~ the genuineness of the request of the 4th respondent and also in public interest has effected the transfer of the 4th respondent to Guntur and the applicant herein to Nagpur.

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It is only after the applicant had worked at Guntur for a period of 30 years, he has been transferred from Guntur to Nagpur. In the circumstances of the case, we are unable to understand how the transfer order of the applicant is not valid. In this connection we may refer to the decision reported in (1984) 4 SCC 131 B.Vardha Rao Vs State of Karnataka wherein it is laid down as follows:

"It is well understood that transfer of a government servant who is appointed to a particular cadre of transferable posts from one place to another is an ordinary incident of service and therefore does not result in any alteration of any of the conditions of service to his disadvantage. (emphasis supplied). That a government servant is liable to be transferred to a similar post in the same cadre is a normal feature and incident of government service and no government servant can claim to remain in a particular place or in a particular post unless, of course, his appointment itself is to a specified, non-transferable post."

So, in view of the above said decision, it is not open to the applicant herein to question the order of transfer as we see no malafides on the part of the ~~xxx~~ respondents in effecting the said transfer. In the latest decision of the Supreme Court reported in AIR 1991 SC 532 - Mrs Shilpi Bose and others (Appellants) Vs State of Bihar and others (Respondents)-it is held as follows:

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of malafide. A Govt. servant holding a transferable post has no vested right to remain posted

T. C. R. P.

Copy to:-

1. Agricultural Marketing Adviser, Ministry of Agriculture & Rural Development Dte. of Marketing & Inspection, Union of India, Faridabad.
2. Joint Agricultural Marketing Adviser Dte. of Marketing & Inspection Branch Head Office New Secretariat Building, Nagpur.
3. Dy. Agricultural Marketing Adviser, South Central Region, Kothapeta, Guntur.
- ④. K. Umakantha Rao, Driver Dte. of Marketing Inspection Branch Head Office, Nagpur.
4. One copy to Sri. T. Jayant, advocate, Srinagar colony, Gaddiannaram, P&T colony, Dilsukhnagar, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One spare copy.

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at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts instead affected party should approach the higher authorities in the Department. If the courts continue to interfere in the day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest.

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Sri T. Jayant, Learned counsel appearing for the applicant vehemently contended as the applicant is due to retire within a period of two and half years that the transfer of the applicant at this stage amounts violation of the instructions issued by the Department. We would like to make it clear that Departmental instructions does not carry any statutory force. Even if there is violation of Departmental instructions, in view of the decision of the Supreme Court(AIR 1991 SC 532), the transfer order does not become an invalid one. Hence, the respondents are not bound by the said departmental instructions and can act in public interest in the matter of transfers. Hence we see no merits in this OA. This OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

T. U. (T. CHANDRASEKHARA REDDY)
Member(Judl.)

Dated: 28 AUG 1992

mvl

Deputy Registrar

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TYPED BY

0. A. 926/91
COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 22/8/1992

ORDER / JUDGMENT

R.A./C.A./M.A.No

in

O.A.No.

926/91

T.A.No.

(W.P.No)

Admitted and interim directions
issued

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A.Ordered / Rejected

No orders as to costs.

pvm.

