

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.643 of 1992

DATE OF JUDGMENT: 15th SEPTEMBER, 1992

BETWEEN:

Smt. L.Vijayalakshmi

..

Applicant

AND

1. The Director,
Central Board for Workers Education,
Nagpur-10.

2. The Regional Director,
Workers Education Centre,
Visakhapatnam.

..

Respondents

COUNSEL FOR THE APPLICANT: Mr. G.Bikshapathy

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ranganadham, Addl.CGSC

CORAM:

Hon'ble Shri R.Balasubramanian, Member (Admn.)

Hon'ble Shri C.J.Roy, Member (Judl.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER(JUDL.)

This application under Section 19 of the Adminis-
trative Tribunals Act, 1985 has been filed by the applicant

contd....

80

.. 2 ..

claiming a relief to declare the Office Order No. Admn. II/ 10(9)/Vol. VII/2441, dated 6/8-7-1992 as illegal, arbitrary, malafide and without jurisdiction.

2. The brief facts that are necessary to determine the case are as follows:-

The applicant was selected and appointed as Education Officer under Telugu Language group in the recruitment held in 1974, with effect from 3.4.1975. She was posted at Visakhapatnam and subsequently was transferred to Vijayawada in 1986. On her request, she was again transferred back to Visakhapatnam. The relations between the applicant and the then Regional Director, Mr. M.V. Subbarayudu, became strained on account of ill-treatment meted out to the applicant and the said Mr. Subbarayudu instigated the staff to make complaints against the applicant basing on which a preliminary enquiry was conducted. The said Mr. Subbarayudu was promoted and posted outside Visakhapatnam. The applicant was issued with a charge sheet on 8-7-1992 alleging certain misconduct against her for which she is taking steps to submit her explanation. Meanwhile, the 1st respondent issued Office Order dated 6/8-7-1992 transferring the applicant from Visakhapatnam to Madras in public interest, wherein it was also stated that any representation from the officer should not be made as a ground for delaying in relieving her from Visakhapatnam. Hence, this application.

contd....

.. 3 ..

3. The respondent in their counter denied the allegations of the applicant. It is stated that the then Regional Director (South Zone) Mr. M.V.Subbarayudu vide letter dated 10-4-1991 suggested to call for an explanation from the applicant for the various lapses pointed out by him. Meanwhile, Mr. Subbarayudu was promoted as Zonal Director and posted to Madras and in his place Mr. K.Subramani, Education Officer, Cochin was promoted and posted as Regional Director, Visakhapatnam and he joined the Centre on 6-5-1991 at Visakhapatnam. Mr. K.Subramani also reported to the Director various instances of indiscipline and insubordination on the part of the applicant. Based on the various allegations against the applicant, a Memorandum dated 19-9-1991 specifying two instances viz., (a) shouting and abusing the Regional Director (Shri M.V.Subbarayudu) on 29.1.1991 and (b) disobeying the instructions of the Regional Director (Shri K.Subramani) on 11.7.1991 was issued to her. Since the explanation was not satisfactory, one Mr. K.V.Rao was deputed to make enquiries. After making enquiries into the complaints, Mr. K.V.Rao recommended vide note dated 10.1.1992 that the applicant should be telegraphically transferred from Visakhapatnam and a regular departmental enquiry should be instituted against her. He also stated that the situation at Visakhapatnam was tense and the Regional Director and the Education Officers were afraid of the applicant as she had threatened

contd....

20/6/92

.. 4 ..

that she would physically assault them. Therefore, a charge-sheet was issued by the Chairman, Central Board for Workers Education to the applicant vide Memo dated 8.7.1992. The Regional Director, Visakhapatnam also informed vide telegram dated 10-2-1992 that the day-to-day situation at the Centre had become very bad and he was unable to function properly. Hence, for administrative convenience in the public interest and for better administration it was felt essential to transfer the applicant from Visakhapatnam to Madras and the impugned orders dated 8.7.1992 were issued. The instructions of the Regional Director that any representation from the applicant should not be a ground for delay in relieving her from the centre are applicable to all transfer orders issued by the Board in the public interest. The contention of the applicant that she was recruited against the vacancy exclusively reserved for Telugu group, is not correct. Her services can profitably be utilised in a place like Madras where English is normally spoken in the offices. The transfer is not as a measure of punishment, since punishment can be considered only if the charges are proved in the departmental enquiry instituted against her. There was no malafide intention for causing inconvenience to the applicant. If the applicant is interested in teaching in Telugu, there are large number of telugu workers in Madras Regions. No ~~any~~ official can claim a right to remain at one place permanently, since

7

contd....

83

transfer is incidental to the service. The applicant has already been relieved from the Centre at Visakhapatnam with effect from 20.7.1992 and there are no merits in the application and the application is liable to be dismissed.

4. Heard the learned counsel for the applicant, Mr. Chakravarty for Mr. G. Bikshapathy and the learned Additional Standing Counsel for the Respondents, Mr. N.V. Ranganadham.

5. The main ground urged by the applicant in questioning the transfer order is that since she was appointed as Education Officer in respect of the vacancies reserved for Telugu Group, her transfer to Madras is unwarranted and serves no purpose. It would be very difficult for her to undertake the workers education scheme in Madras, as she does not know Tamil, which is very much essential for discharging the duties of the Education Officer in Tamilnadu. Therefore, the transfer is effected as a measure of punishment rather than public interest.

6. We are unable to accept the contention of the applicant that she being the Education Officer in respect Telugu group, it would be difficult for her to undertake the education scheme in Madras. There are nearly 60% of the Port Trust Workers who speak Telugu and a large number of telugu speaking workers are working in several interior villages of Tamilnadu. The services of the Education

STAMP

Officers are transferable all over India as per the administrative convenience and in the public interest. The applicant cannot claim as a matter of right to remain at one place permanently, since transfer is incidental to service.

7. The applicant attributed malafides against the Regional Director, Mr. M.V.Subbarayudu, but she failed to file an affidavit to that effect nor made him as one of the respondents to this application. Hence, the allegation of malafides against a person who was not made party to the case, cannot be accepted.

8. A perusal of the counter clearly shows that the applicant while on duty was shouting and abusing the Regional Director, Mr. M.V.Subrayudu, on 29.1.1991 and disobeying the instructions of the Regional Director (Shri K.Subramani) on 11.7.1991 thereby an enquiry was conducted by one Mr. K.V.Rao who advised ^{to} telegraphically transfer the applicant and institute regular departmental enquiry against her. On the basis of the recommendations of Mr. K.V.Rao, the applicant was charge sheeted and transferred to Madras vide orders dated 8.7.1992 and also in vi of the ~~app~~ fact that continuance of the applicant at Visakhapatnam will seriously subvert the discipline in the office since it has been alleged that she was threatening the Officers and staff there with physical assault. The Regional Director, Visakhapatnam also informed vide telegram dated 10.2.1992 that the day-to-day situation at the Centre had ~~bec~~ become very bad and that the applicant was unable to function properly.

9. In view of the above, it is very clear that the Department felt that the services of the applicant could not be utilised properly because of her behaviour. ~~.....~~ Hence, she was transferred to Madras where her services can profitably be ~~xx~~ utilised for such work where English is normally spoken in the offices.

10. We see no inconsistency in the order of transfer issued by the respondents.

11. Besides, The Hon'ble Supreme Court of India in AIR 1989 SC 1433 (Gujarat State Electricity Board Vs. Atma Ram), held that-

" the applicant should have joined the service and then made a representation."

12. That apart, the Hon'ble Supreme Court of India also in the case of "Union of India Vs. Kirtania (1989 SC(L&S) 481)", held that the "applicant cannot choose a place of posting and that the transfer is an incident of service".

13. In, AIR 1991 SC 532 (M/s Shilpi Bose and others Vs. State ~~of~~ Bank of Bihar and others), the Hon'ble Supreme Court held in para-4 that-

"the court should not interfere with the transfer order which are made in public

(36)

.. 8 ..

interest and for administrative reasons unless the transfer orders are made in violation of any mandatory, statutory rule or on the ground of malafides.

The government servant holding transferable post has no vested right to remain posted at one place or the other. He is liable to be transferred to one place from another. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if transfer order is passed in violation of executive instructions/orders, the court, ordinarily should ^{not} interfere with the orders, instead affected party should approach the higher authorities in the department. If the courts continue to interfere with the day-to-day transfer orders, there will be complete chaos in the administration which would not be conducive in the public interest."

14. Following various principles laid down in the Judgments by the Hon'ble Supreme Court cited supra, we have no hesitation to hold that the transfer of the applicant is in order and is not malafide. The applicant has not made out any case for interference in the matter.

15. However, this does not preclude the respondents ^{favorably} considering any representation made by the applicant. ~~favorably~~.

contd....

.. 9 ..

16. With these directions, the application is disposed of with no order as to costs.

Librarian

(R. BALASUBRAMANIAN)
Member (Admn.)

weston
(C. J. ROY)
Member (Judl.)

Dated: 15th September, 1992. Dy. Registrar (J)

SP/MA/HZ

Copy to:-

1. The Director, Central Board for Workers Education, Nagpur
2. The Regional Director, Workers Education Centre, Visakhapatnam.
3. One copy to Sri. G. Bikshapathy, advocate, 16-9-749/41, Race course road, Old Malakpet, Hyd-36.
4. One copy to Sri. N.V. Ranganadham, Addl. CGSC, CAT, Hyd.
5. Copy to Reporters as per standard list of CAT, Hyd.
6. One spare copy.
7. *one copy to D.R (J)*

Rsm/-

9/10/92
vsn

TYPED 6 A. 643/92

TYPED BY

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: 15/9/1992

ORDER / JUDGMENT

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

O.A. No.

in
643/9

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.

