

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R

Date of order : 23.11.93.

O.A. NO. 177/93

R.D.MEE NA

; Applicant

Mr.R.N.Mathur

: Counsel for applicant.

Vs.

UNION OF INDIA AND ORS.

: Respondents

Mr.M.Rafiq

: Counsel for respondents.

CCRAM :

The Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

The Hon'ble Mr.P.P.Srivastava, Administrative Member

HON'BLE MR.JUSTICE D.L.MEHTA, V.C. :

Heard the learned counsel for both the parties.

2. The applicant was recruited as Assistant Employment Officer and thereafter he was promoted as Sub Regional Employment Officer in DGE&T by the Union Public Service Commission (U.P.S.C.) and was posted as Sub Regional Employment Officer at Coaching-cum-Guidance Centre for Scheduled Caste/Scheduled Tribe, Jaipur in the year 1983 and since then he has been working on this post at Jaipur. The applicant was transferred vide Annex.A/1 order dated 1.5.92 from Jaipur to Rourkela. Therefore, the applicant challenged

the order of his transfer on various grounds.

One of the ground taken by the applicant is that the persons of Scheduled Caste/Scheduled Tribe category are harassed and they are transferred and discriminatory treatment is given to them. He has reproduced the copy of the O.M.No.36026/3/85-Estt.(SCT) dated 24.6.1985. The Government has issued a Circular and emphasis that government servant should desist from any act discriminatory against the members of the Scheduled Caste/Scheduled Tribe on the ground of their social origin. It was also suggested that the senior officers including the Liaison Officers of the Ministry/Department should keep a close-watch to ensure that such incidents do not occur at all. It was also mentioned in the said Circular, if any such incident comes to the notice of the authorities, action should be taken against the ~~x~~ officials promptly. Mr.R.N.Mathur has referred as Annex.A/10 the letter dated 11.12.1992 addressed by National Commission for Scheduled Castes and Scheduled Tribes. The Dy.Director addressed a letter to the Director of Employment Exchange requesting him to re-examine the case of the applicant particularly considering his family circumstances and illness of his mother, question of payment of transfer, T.A. etc. and the government instruction. He has also requested that till such a final decision, he may be allowed to stay on in Jaipur, even if necessary as a special case.

3. We have considered the submission of Mr.Mathur ^{whether} that the recommendations are of binding nature and if not of binding nature weightage should be given to it and the transfer should be cancelled on this ground. The Government in its Circular has directed that there shall be a Liaison Officer and if the matter of discrimination ^{there} is/ then Liaison Officer shall placed it before the Government and the Government would pass the necessary orders thereon. Thus, from the very out-set we cannot accept the view that the Government has not considered the matter to discriminature nature, and we are ^{not} ~~not~~ ^{here} ~~considered~~ ^{inclusion to give} Annex.A/10 referred by Mr.Mathur and we are of the view, that it is not a case of malafide transferred or any discriminatory action against the person of the Scheduled Tribe Community. The second submission of Mr.Mathur is that the immediate officer Mr.Tiwari addressed a letter Annex.A/11 to the Director Employment Exchange, Shri R.S.Srivastava and reported to him that in the interest of job seekers of Rajasthan, Shri Meena be retained in CGC Jaipur till an S.R.E.O. is posted. The Officer has rightly recommended that Shri Meena should have retained in Rajasthan in the interest of job seekers till alternative arrangement is made, as the project will suffer on account of vacancy. This is a request for the stay of transfer only on the ground that the vacancy may adversely affected the project.

4. Mr.Mathur has further argued that there is a provision that it is desirable that the person should be posted who is having the knowledge of local language.

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It has been further mentioned that the local language shall be specified at the time of each selection.

5. Mr.R.N.Mathur submits that no public interest is involved in the matter of transfer of the applicant to Orissa. Mr.Rafiq has argued the case very strongly and also with all fairness on his part. He has pointed out that Mr.Meena is staying in Jaipur from 5.7.83 and no other candidate on regular basis stayed at one place for more than five years, except two deputationists. We are not concerned whether Mr.Meena should be transferred from Jaipur or not. In fact it is in the fitness of things that Mr.Meena should be transferred after a long stay of 10 years, if the administration considers that it is in the interest of administration. The only point is whether the public interest will be served at the place of posting of Mr. Meena. He may not be capable of speaking but he should be atleast capable of conversation with the SC/ST persons of that area. If a person who does not know the ABC of the Orissa State language and is posted at Orissa and performs the duties like organising conferences, building programmes etc., then the Officers will not be able to perform their duties as he will not be able to convey his expressions to the people. The people of Orissa will not be able to get the benefit and in fact there will be no working of the organisation except having the post.

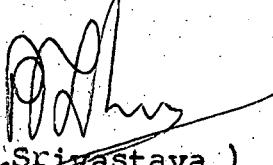
6. Mr.Mathur has invited our attention to Circular dated ~~XXXXXX~~ 10.2.92 and we are of the view that in

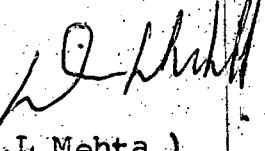
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the interest of proper recruitment it will be better if the language is mentioned.

7. We are of the view that the transfer of the applicant from Jaipur to Rourkela (Orissa) may not be in the interest of administration as the applicant does not know the language of Orissa. In the result, we quash the transfer order Annex.A/1 ~~xxx~~ and direct the respondents that the applicant should be posted anywhere in the country where Hindi is understood as local language and in case the applicant knows any other language then he can also be posted where that language is spoken. The O.A. stands disposed of accordingly without any order as to costs.


(P.P. Srivastava)
Admvt. Member


(D.L. Mehta)
Vice Chairman