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CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.

Original Application no. 17/1993

Date of decision
11.3.93

MOHD. AKHATAR ... Applicant.
Mr. R.N.Mathur ... Counsel for the
Applicant.

VERSUS

UNION OF INDIA & ORS. ... Respondents.
Mr. Praveen Balwada ... Counsel for the
Respondents.

PER HON' BLE MR.GOPAL KRISHNA, JUDL. MEMBER :-

This application under Section 19 of the Administrative Tribunals Act, 1985, by the applicant Mohd. Akhatar, is directed against the impugned order dated 19.12.1992 (Annexure-A/1) whereby he was transferred from/sensitive section E-8 to a non-sensitive section E-2 on the post of Upper Division Clerk (U.D.C., for short) in the office of Commander of Works Engineer (E.W.E., for short) at Jaipur.

2. The facts as stated in the application and the rejoinder are as follows :- The applicant is holding the post of U.D.C. in the office of Respondent No.2. The respondents no. 1 and 2 have two types of sections known as sensitive and non-sensitive sections. The section in which the bills of contractors etc are passed is a sensitive section. The applicant joined in a sensitive section in January, 1991 and he has been working efficiently in the sensitive section E-8 but he has been transferred to a non-sensitive section vide the impugned order in violation of the guidelines (Annexure-A/2) and the principles of natural justice in as much as the same was issued on the basis of certain complaints. The representation dated 19.12.1992 made by the applicant vide Annexure-A/ was rejected vide an order dated 4.1.1993 (Annexure-A/4). It is alleged that the foundation of the impugned transfer order lay in the complaints Annexure-A/5 and A/ and that it could not have been issued without conducting an enquiry into their truth and that the

Clerk

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applicant's transfer before a period of three years under the circumstances casts a stigma on him. It is also averred that as per policy guidelines a person cannot remain in a sensitive section beyond a period of three years and the guidelines were violated in the case of Shri M.L. Makkar.

3. The application has been contested on the ground that the applicant has been working in E-8 section since 3.12.1991 and during his tenure of service in the aforesaid section his performance was found ~~to be~~ unsatisfactory resulting in accumulation of office work and as such the impugned order was issued in the interest of administration. Moreover, there were complaints against the applicant made by his colleagues and some contractors. The movement of the applicant and others vide the impugned order was made primarily to tone up the administration in the office of C.W.E., Jaipur and it was not based on complaints.

4. I have heard the counsel for the parties and perused the records.

5. The point to be decided is whether the impugned order of transfer is mala fide or illegal as contended on behalf of the applicant. It is true that there are sensitive and non-sensitive sections within the Division or another Division or C.E./C.W.E., H.Q. as far as possible within the station. Averment, if any, made by the respondents to the contrary does not help the applicant for the purposes of his case. The learned counsel for the applicant urged that the complaints made against the applicant and his integrity formed the basis of the order of transfer and as such the same cannot be upheld in the absence of an enquiry into the truth of the allegations made against him. The names of the applicant's colleagues and the contractors who made such complaints were not revealed to the applicant. However, receipt of complaints may itself be a valid ground of transfer

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and it is not necessary that an enquiry must be held before transfer is ordered. Reliance is placed on (1988) 7 ATC, 253 Kamlesh Trivedi V. Indian Council of Agricultural Research. The learned counsel for the applicant cited rulings reported in 1980 S.L.J. 466 (Prakash Chandra Saxena V. State of M.P. and others), 1983 (1) S.L.J. 360 (Kali Chand Ganguly V. Union of India and others), 1986 (2) S.L.J. 27 (K.K. Jindal V. G.M., Northern Railway & Others) and 1988 (4) S.L.J. (C.A.T.) 288 (Sri Brundaran Chompaty V. Union of India) etc. These rulings have been duly considered. But I find no substance in the contention of the applicant that the order of transfer is stigmatic or penal in nature as the applicant has been transferred in the same office at the same station in administrative interest in order to tone up administrative efficiency. The transfer order does not suffer from the vice of mala fides or arbitrariness. It was not issued in violation of statutory rules.

6. In view of what has been stated above, this application fails and the same is dismissed with no order as to costs.

G.Krishna
11-3-93
(GOPAL KRISHNA)
JUDL. MEMBER

Shashi/