

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 14.7.94.

OA 270/94

BABU LAL ASAD

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

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

For the Applicant ... SHRI BHANWAR BAGRI.

For the Respondents ... SHRI U.D. SHARMA.

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

Applicant Babu Lal Asad has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying that the order dated 13.6.94 (Annexure A-1), passed by the respondent No.2, the Assistant Accountant General (WM), Office of the Accountant General (A.G.), Rajasthan, Jaipur, transferring the applicant from FWD District Division Dausa to FWD Division-II Bharatpur, may be quashed.

2. The applicant's case is that he was transferred on deputation basis to the Public Works Department, Rajasthan, by order dated 8.9.92, issued by the Dy. Accountant General (Adm.), Office of the Accountant General (A.G.), Rajasthan, Jaipur, wherein it was specifically mentioned that the initial period of deputation would be one year subject to continued suitability and administrative convenience and that the total period of deputation will normally not exceed three years. His deputation was further extended for a period of one year from 29.9.93 to 28.9.94 by order dated 10.1.94 (Annexure A-3), issued by the Deputy Accountant General (Adm.). He has been on deputation with the Public Works Department, Rajasthan, and has been working in the office of the Executive Engineer, PWD, District Division, Dausa, but the respondent No.2 without any authority under the law has transferred the applicant from Dausa to Bharatpur by order dated 13.6.94 (Annexure A-1). The order dated 13.6.94 is not in public interest and is based on mala-fides. When the applicant is on deputation with the Public Works Department, the respondent No.2 has no authority in

law to cause any interruption in the working of the applicant with the said department. In the order dated 8.9.92, by which the applicant was transferred on deputation to the Public Works Department, Rajasthan, no condition was laid down that the administrative control on the applicant in respect of transfer etc. shall still rest with the Accountant General (AG), Rajasthan, Jaipur, or any of its subordinate officers. The person sought to be posted vice the applicant at Dausa could be posted at Bharatpur. The applicant has mentioned the name of one Shri B.S. Sethi who is proposed to be accommodated at Dausa vice the applicant.

3. The respondents in their reply have stated that the cadre of Divisional Accountants has been constituted for the State of Rajasthan for manning the posts of Divisional Accountants in the Public Works Divisions of the State Government, which are the Irrigation Department, the Public Health and Engineering Deptt. and the Public Works Department. The posts of Divisional Accountants are civil posts and are administered in the State of Rajasthan by the Accountant General (AG), Rajasthan, Jaipur, who is the Cadre Controlling Authority for the Divisional Accountants as per the instructions contained in the Manual of Standing Orders (Annexure R-1). In view of the shortage of Divisional Accountants, the applicant was deputed as Divisional Accountant on deputation basis from another wing of the office of the Accountant General, on the basis of applications invited and received. A person recruited as a Divisional Accountant can be posted to any of the three departments of the Rajasthan, referred to above. The deputation is not to a particular Engineering Department but to the cadre of the Divisional Accountants and such a person can be posted by the Cadre Controlling Authority in any of the offices of the aforesaid three departments. On his initial appointment at Baran, on 8.9.92, the applicant sought a transfer to Dausa and it was accordingly granted. They have further stated that the transfer of the applicant has been made in a bonafide manner in the exigencies of service. There was a complaint by the Executive Engineer of Dausa Division to the Accountant General, Rajasthan,

regarding the working of the applicant, wherein it was stated that the applicant usually attends office in a drunken state and as such he cannot discharge the duties assigned to him, and further that he had been taking his duties lightly. A request was made to the Accountant General that a senior and very responsible Divisional Accountant may instead be posted who can copeup with the work of the Division. The applicant was also warned by the Accountant General personally to be more careful in future in behaviour and work but the applicant had failed to improve his work and behaviour. A further reference was made by the said Executive Engineer, in which he again apprised the Accountant General about the working of the applicant. Thereupon the matter was considered by a Transfer Committee in the office of the Accountant General and it was on the basis of the recommendations of this committee that the applicant was transferred from Dausa. In these circumstances, it is not for the applicant to suggest that Shri P.C. Sethi should instead have been posted to Bharatpur.

4. During the arguments, the learned counsel for the applicant stated that the real reason for transfer of the applicant from Dausa was that he declined to pass an irregular claim of about Rs.1500/- and this fact has been mentioned in the rejoinder to the reply of the respondents. He has drawn our attention to the judgement of the Jodhpur Bench of the Tribunal in the case of B.S. Verma Vs. UOI & Ors., reported at ATR 1993 (1) CAT 542, wherein the Tribunal held that unless there are strong and exceptional reason of public interest and administrative exigency, the transfers of SC/ST employees away from their native place should not be made. He has added that the applicant is a SC employee and therefore this is an additional reason that he should not be disturbed from his present place of posting.

5. The learned counsel for the respondents has stated that the persons taken on deputation as Divisional Accountants from

other wings of the Accountant General's office continue to be under the administrative control of the Accountant General, who places them with various Divisions or Wings of the Public Works Department of the Rajasthan Government, and during their functioning as such they continue to be under the control of the Accountant General, Rajasthan. The Accountant General is fully competent to transfer these Divisional Accountants from one part of the Public Works Department to another. There is no fixed term of deputation or posting specified for any particular station at which the applicant is posted. No allegations regarding declining to pass an irregular bill have been made in the application itself and no person has been impleaded by name as having been acted in a mala-fide manner against the interests of the applicant, in the matter of his transfer.

6. We have heard the learned counsel for the parties and have gone through the records as also the judgement cited by the learned counsel for the applicant. It appears to us from the scheme of taking Divisional Accountants on deputation and placing them with various Wings of the Public Works Department of the Rajasthan Government that they are taken on deputation by the Accountant General's office and they continue to be under his administrative control, who is therefore empowered to transfer them from one station to another. An order of transfer cannot be interfered with unless it is either passed in a mala-fide manner or is contrary to the statutory rules. Of course, transfer has to be in public interest. The respondents have placed material before us to suggest that the performance of the applicant at Dausa was inadequate and his behaviour and conduct at that station was also not proper. In these circumstances, the respondents had to transfer the applicant from Dausa to another station. Before ordering the transfer of the applicant the matter was considered by a duly constituted committee of senior officers.

\* as held by  
Hon'ble  
Supreme Court  
in the case  
of UOI & Ors.  
v. S.L. Abbas  
(JT 1993 (3)  
SC 678).

The judgement of the Jodhpur Bench, cited before us, has no applicability to the present case because it is not the allegation that the applicant has been transferred from one place to another with a view to harassing him, because he is a SC employee. We, on the other hand, find that the transfer has been ordered on administrative grounds, which have been spelt out in the reply of the respondents.

7. Taking all the facts and circumstances of the case into account, we hold that there is no merit in this application. It is, therefore, dismissed with no order as to costs. The interim stay granted on 17.6.94 is vacated.

( G.P. SHARMA )  
MEMBER (A)

Chakraborty  
( GOPAL KRISHNA )  
MEMBER (J)