

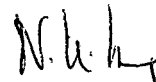
this Tribunal at Jodhpur wherein the appeal of the Union of India was upheld. In that case also["] the respondents had alleged that his superiors were annoyed on account of his trade union activities and the complaints made by him in that capacity about the functioning of the Depot. The Tribunal did not accept the respondent's contention that the transfer was made on account of the complaints made by the respondent about the functioning of the Depot. However, the Tribunal appears to have been influenced by the respondent's assertion that his trade union activities had influenced the transfer. Accordingly, the Tribunal held that the transfer order had been made in colourable exercise of power["]. The transfer was accordingly quashed. In para 4 of the judgment, the Hon'ble Supreme Court held that["] in our opinion, in the present case there is no material to justify interference with the mere order of transfer made by the competent authority for administrative reasons particularly when the Tribunal had rejected the respondent's assertion that the transfer had been made on account of certain complaints he had made regarding the functioning of the Depot. We have no doubt that the view taken by the Tribunal is not justified on the facts found by it. It is also not within the scope of permissible judicial review in such matters relating to mere transfer made by the competent authority for administrative reasons."

5. With these stipulations of Hon'ble the Supreme Court, we are not persuaded by the pleadings and

arguments of the learned counsel for the applicant that the transfer orders were vitiated by malafides or by any gross violation of the statutory provisions. The request registers maintained by the respondents is only as a result of certain guidelines issued by the Railway Board and that does not vest any legal right in the applicant to be enforceable by this Tribunal for interference in the matter. We, therefore, find that the OA fails and is ^{acquit} dismissed at the stage of admission itself. With no order as to costs.



(RATTAN PRAKASH)
MEMBER (J)



(N.K.VERMA)
MEMBER (A)

Rel. on behalf
of the Mannish branch.
Dh
23/1/96

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Vrelp - 6293
Ch - 24/1/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
J A I P U R.

QA No.426/1995

Date of order: 17.1.1996

MaheshChandra Sharma

: Applicant

Versus

Union of India and others

: Respondents

Mr. S.C.Sethi, counsel for the applicant

Mr. Manish Shandari, counsel for the respondents

CORAM

HON'BLE SHRI N.K.VERMA, MEMBER (ADMINISTRATIVE)

HON'BLE SHRI RATTAN PRATAP, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI N.K.VERMA, MEMBER (ADMINISTRATIVE))

In this QA the applicant Shri M.C.Sharma has assailed the orders of the respondents by which the earlier orders dated 3.5.1994 were cancelled and an order dated 2.5.1994 was restored. By this order the applicant's request for transfer to Gangapur City was not acceded to by the respondents whereas others who were promoted as TCM Gr.I were given stations of their choice. The main brunt of the argument against this transfer is the mala fide action on part of respondent No.3 who is DOTE(T) of the Western Railway, Divisional Office, Kota who acted under the pressure of respondent No.5 and of the Unions.

2. We heard the learned counsels for both the parties. Shri Sethi learned counsel for the applicant during the course of arguments based the entire contention on the fact that applicant was denied his rightful choice of station under the personal influence

of respondent No.5 Shri O.P.Sharma who was able to obtain the posting at Gangapur City and the applicant was transferred to Nimoda. This transfer was done only to accommodate the interest of respondent No.5 and this has prejudiced the interest of the applicant without any rhyme or reason. The applicant had made an application to DSTE(T) Kota vide Annexures A-4 and A-6 dated 18.5.94 and 29.9.1994 wherein he had represented against the cancellation of his retention orders at Gangapur City on promotion as TCM Grade-I. One of the reasons taken by him was that he was involved in litigation at several levels including the Hon'ble Supreme Court regarding his domestic or matrimonial matters and a placement at Gangapur City would help him immensely in that respect. However inspite of his representations, by the impugned order dated 22.9.1994 he has been denied the opportunity of being posting at Gangapur City.

3. Shri Bhandari on the other hand, stated that there was no malafide at the level of DSTE(T)Kota for causing any prejudice to the applicant in not giving him the choice station. He also brought to our notice several judgments of the Supreme Court where the Tribunals have been precluded from interfering in the transfer orders unless these are vitiated by arbitrariness, colourable exercise of power and malafides. Since none of these are present in this case, the CA is not sustainable in law. He also brought to our notice that the Union had brought to the notice of the administration certain irregularities connected with the transfer orders which had been passed earlier

and the same was sought to be rectified by the impugned order dated 22.9.1994.

4. We have given our sympathetic consideration to all the arguments, averments and pleadings canvassed by Shri Sethi. There are a number of recent judgments of Hon'ble Supreme Court wherein the Tribunals have been specifically prohibited from interfering in the transfer orders unless the transfer orders are vitiated by arbitrariness, malafides and in violation of the statutory provisions. In the case of Union of India Vs. S.L. Abbas (1993)25 ATC 844 the Supreme Court had laid down that the Tribunal is not an appellate authority which can substitute its own judgment to the judgment of the administrative authorities. Interference with an intravires bonafide order of transfer therefore would be in excess of the jurisdiction of the Tribunal. Earlier to that in the case of Shilpi Bosa Vs. State of Bihar (1991)17 ATC 935 the Hon'ble Supreme Court laid down that "Courts should not interfere with the transfer orders 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 government servant holding transferable post has no vested right to remain posted at one place or the other. He is liable to be posted from one place to the other. Transfer orders issued by the competent authority do not violate his legal rights. Even if a transfer order is passed in violation of statutory instructions or orders the Courts ordinarily should not interfere with the order." In a recent judgment cited at (1995)30 ATC 629 in the case of Union of India Vs. G.D. Singh ^{the Hon'ble SC.} up set an order of