

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO.291/00379/2015

Order reserved on : 31.7.2015

Date of Order: 06.08.2015

CORAM

HON'BLE MR. JUSTICE HARUN-UL-RASHID, JUDICIAL MEMBER

Sunder Lal Meena S/o Shri Janki Lal, aged about 45 years, R/o H.No.885-B, Shrinathpuram, Kota, presently working as Social Security Assistant, Employees' Provident Fund Organisation, Sub-Regional Office, Nidhi Bhawan, Vigyan Nagar, Kota, Rajasthan.

.....Applicant

(By Advocate Mr. Anupam Agarwal)

VERSUS

1. Union of India through the Central Provident Fund Commissioner, Employees' Provident Fund Organisation, 14, Bhikaji Kama Palace, New Delhi.
2. The Regional Provident Fund Commissioner, Employees' Provident Fund Organisation, Nidhi Bhawan, Jyoti Nagar, Jaipur, Rajasthan.
3. The Assistant Provident Fund Commissioner(Adm.), Employees' Provident Fund Organisation, Nidhi Bhawan, Jyoti Nagar, Jaipur, Rajasthan.

.....Respondents

(By Advocate Mr. Amit Mathur)

ORDER

Annexure A/1 transfer order dated 22.6.2015 is under challenge.

The prayer in the OA is to set aside the Annexure A/1 transfer order.

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2. The applicant is a physically handicapped candidate with 75 per cent disability. The applicant was initially appointed and posted as LDC in 1992 at Kota. He was thereafter promoted as UDC now re-designated as Social Security Assistant(SSA). The applicant while

working as SSA, was transferred from Accounts Section II to Accounts Section IV by Annexure A/3 order dated 12.10.2014 in the same station. Shri Birendra Singh who is General Secretary of the Employees' Union at Kota was working as Section Supervisor in the Accounts Section IV. The applicant lodged complaint against him to the SC/ST Commission alleging harassment. The respondents appointed an Inquiry Officer who was directed to investigate the complaint. The Inquiry Officer held sittings on 20.4.2015, 27.4.2015, 8.5.2015 and last on 11.5.2015. It is contended that Annexure A/1 order has been issued by an incompetent authority he being not an appointing authority and, therefore, is not competent to transfer the applicant.

3. It is contended that the applicant was not afforded sufficient opportunity to explain his grievance before the Inquiry Officer and that no one has been posted in place of the applicant. It is also submitted that there is no administrative exigency to transfer out the applicant from Kota. The applicant also submits that he is a physically handicapped person with 75% disability and cannot do his daily routine work without the help of someone. He has two children who are studying in school and there is no one else to look after his family. It is also submitted that he was transferred to a remote distant place of 340 Km. from Kota. It would be difficult to manage himself and his family affairs.

4. It is also submitted that if the applicant is forced to join at such a distant place then it will affect adversely his health and that the transfer order is a malafide exercise of power.

5. The respondents have filed a detailed reply. In the reply it is stated that the transfer of the applicant was made in the administrative exigency. It is also stated therein that the continuation of the applicant at Kota office was adversely affecting the office

atmosphere as the applicant was making frivolous complaints and misusing his status as a member of scheduled tribe community and physically handicapped person. It is also pointed out that transfer of the applicant was made due to the fact that in sub-Regional Office, Kota there was excess number of Social Security Assistant and the SSA are short in number in Udaipur Office. It is also stated in the reply filed by the respondents that there were number of complaints against the applicant complaining his misbehavior. The applicant also made complaint against several staff members. The staff of the office alleged in the complaint that applicant uses his belonging to reserved category to harass other persons. It is stated that police has registered an FIR against him when he and one Shri Yogiraj Yogi quarreled against each other. It is stated that act of the applicant has tarnished the image of the Organisation and bad reputé as is evident from the newspapers reports published in local newspapers. The respondents have enclosed copy of the news published in the local news papers as Annexure R/1. It is further stated that pursuant to the FIR lodged against him, a penalty was imposed upon the applicant. The respondents produced copy of the order as Annexure R/2.

6. The employees working in the department as well as Staff Union have filed complaint against the applicant. They have also filed a complaint in Police Station alleging that applicant will take action under Section 3 of SC/ST Act against them. A copy is marked as Annexure R/3.

4 7. From the reply it is seen that applicant had submitted one complaint on 5.1.2015 against one Shri Birendra Singh, Section Supervisor before the Director, National Commission for Schedule Tribes, Regional office, Jaipur. A copy of the complaint was produced and marked as Annexure A/4. On receipt of the complaint the

respondent appointed Shri C.M.Mahavar, Assistant Provident Fund Commissioner as Inquiry Officer. In the Inquiry the applicant was asked to appear and prosecute his complaint before the Inquiry Officer on various posting dates 20.4.2015, 27.4.2015, 8.5.2015 and finally on 11.5.2015. Despite information given to appear, the applicant did not appear in the inquiry proceedings. The attendance register was also produced by the respondents as Annexure R/4 to show that applicant willfully remained absent only on the date of inquiry. The Inquiry Officer recorded the statements of other persons including persons belonging to S.C./S.T. community. After holding the inquiry the Inquiry Officer reached to the conclusion that the charges leveled by the applicant are false. A copy of the Inquiry report filed is marked as Annexure R/5. The Inquiry Officer recorded the statements of 10 staff members. The applicant did not appear in the inquiry and remained absent throughout the inquiry proceedings. The Inquiry Officer also recorded the statement of S/Shri M.K.Golia, APFC, Harish Kumar Sachdev, AO, and others. The Inquiry Officer also issued notice to Shri Birendra Singh. Shri Birendra Singh submitted his defence in writing. A copy of the defence in writing produced is marked as Annexure R/6.

8. Considering the facts and circumstances of the case, findings of the Inquiry Officer and conduct and behavior of the applicant, the competent authority reached to the conclusion that continuation of the applicant in SRO, Kota is not in the interest of administration and that the presence of the applicant is adversely affecting the atmosphere of the Kota office. The competent authority transferred the applicant by Annexure A/1 transfer order from Kota to Udaipur considering the fact that there is shortage of SSA at Udaipur office. Shri Birendra Singh who is Supervisor was also transferred from Kota to Jaipur. From the

facts and circumstances, it is clear that Annexure A/1 transfer order passed considering the interest of the administration.

9. The complaints lodged by the applicant to the Director, National Commission for Scheduled Tribes were inquired and found to be incorrect and the charges leveled are proved to be false. From the facts and circumstances established through Inquiry the authorities found that applicant willfully remained absent in the inquiry proceedings despite the opportunities given to submit his evidence in support of his allegation made against Shri Birendra Singh. The department found that complaint filed against Shri Birendra Singh is not proved, however, to maintain decorum of the office the competent authority transferred Shri Birendra Singh also though no case was made against him.

10. The order of transfer is not malafide as alleged in the OA. I find that there is no substance in the allegation. I also find that there are sufficient reasons for posting the applicant by Annexure A/1 order in the interest of administration. There being administrative exigency the applicant was transferred from Kota office to another office at Udaipur. The OA is devoid of any merits and accordingly is dismissed.


(JUSTICE HARUN-UL-RASHID)
JUDICIAL MEMBER

Adm/