

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 7-6-1996

OA No. 329/1996

K.C.Bhonch

.. Applicant

Versus

Union of India and others .. Respondents

Mr. C.B.Sharma, counsel for the applicant

CORAM:

Hon'ble Mr. O.P.Sharma, Administrative Member

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. O.P.Sharma, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri K.C.Bhonch has prayed that the transfer order dated 13-5-1996 (Annexure-A1), qua the applicant may be quashed and the respondents may be directed to issue orders to enable the applicant to rejoin duty at Jaipur. He has further prayed that the respondents may be directed to allow the applicant to work at Jaipur in the office of A.O., I.C.O. (S.B.) or in any office situated at Jaipur Headquarter till the completion of his tenure.

2. The applicant's case is that he has been serving in the Postal Department since 1967 in Saving Bank Control Organisation (SBCO). He was posted as Supervisor, SBCO Tonk Head Office in 1991 on transfer from Kankroli Head Office at his own request. In view of his family circumstances, he requested respondent No.1 during 1991-1992 to consider transferring the applicant from Tonk to Jaipur in any office at Jaipur. During 1992, the applicant's request was not considered. However,

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thereafter, respondent No.3 transferred the applicant to Jaipur Region vide order dated 19-7-1993. The applicant joined duty at Jaipur on 23-7-1993 as L.S.G. P.A., office of A.O. I.C.O. (S.B.) (Annexure-A4). He had completed 3 years at Jaipur and he expected that he would be allowed to continue to work at Jaipur for atleast 4 years which is the normal tenure for the post. However, vide Annexure-A1 dated 13-5-96, the applicant has been transferred to Alwar without allowing him to complete his tenure at Jaipur. Such transfer is against the guidelines of the Department and also the policy for rotational transfers for the year 1996-97, as laid down in Annexure-A5 (Sl.No. 138, being letter dated 26-2-96 on the subject of guidelines for rotational transfers for the year 1996-97). He has alleged that one Shri M.T. Ramnani who was transferred from Tonk to Jaipur in 1992 has been retained at Jaipur as is evident from Annexure-A3. He has alleged that the action of the respondents is in violation of Articles 14 and 16 of the Constitution. The respondents have failed to consider requests made by the applicant vide letters dated 15-5-1996 and 17-5-1996 to allow him complete his tenure at Jaipur upto 1997. He had added that the transfer is not in the interest of service and the applicant is running 52 years of age, having so many family problems and several social obligations. He can be easily accommodated at Jaipur, where there are 35 officials of the cadre to which the applicant belongs.

3. During the arguments the learned counsel for the applicant has drawn our attention to the judgment of the Hon'ble Supreme Court in the case of N.K. Singh Vs Union of India and others, 1994 (5) SLF 153, and has particularly relied upon paras 23 and 24 thereof for claiming that the transfer order in this case is unsustainable. The

observations of the Hon'ble Supreme Court on which the applicant has relied upon are that unless the decision to transfer is vitiated by malafides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially, there are no judicially manageable standards for scrutinising all transfers and the courts lack the necessary expertise for personnel management of all government departments. The learned counsel for the applicant has stated that the transfer order in this case was in violation of the principles governing the transfers laid down by the Department itself and therefore, the Tribunal should interfere in the matter of his transfer.

4. We have heard the learned counsel for the applicant and have gone through the material on record.

5. In the observations of the Hon'ble Supreme Court in N.K.Singh case, relied upon by the learned counsel for the applicant, it is suggested that the court can interfere only where there is a violation of such norms or principles governing transfers which can be scrutinised judicially. In the case of Union of India and other Vs. S.L.Abbas, JT 1993 (3) SC 678, the Hon'ble Supreme Court had held that transfer can be interfered with by the court only where it has been made malafide or in violation of any statutory rules. Therefore, mere departmental guidelines regulating transfer of personnel from one place to another or from one office to another do not afford a ground for judicial scrutiny of the orders of transfer. In this case the applicant has admittedly already spent three years at Jaipur. He has already been relieved from his duty at Jaipur and has also joined duty at Alwar, which is

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the new place of posting, as stated by the applicant.

6. In these circumstances, we do not find any basis for interfering with the order of transfer. The application is, therefore, dismissed at the stage of admission. The applicant is, however, free to make a representation before the departmental authorities with regard to his grievances.


(Ratan Prakash)

Judicial Member


(O.P. Sharma)

Administrative Member