

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

ORIGINAL APPLICATION NO.399/96

Date of order: 9.8.96

R.M.Lal

: Applicant

v/s.

1. The Union of India, Ministry of Textiles, through the Development Commissioner, Handicrafts, W.B.No.7, R.K.Puram, New Delhi-110066.
2. The Regional Director, Northern Region, Office of the Development Commissioner (Handicrafts), W.B.No.8, R.K.Puram, New Delhi-110066.
3. The Assistant Director (A&C), Carpet Weaving Training-cum-Service Centres, A-4, Sindhi Colony, Malwar Road, Jhotwara, Jaipur- 302 012.
4. The Deputy Director (Handicrafts) National Crafts Institute for Hand Printed Textiles, Office of the Development Commission (Handicrafts), Sarpanch House, Tonk Phatak, Jaipur.

: Respondents

Mr.V.B.Srivastava, counsel for the applicant
Mr.M.Rafiq, counsel for the respondents

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

The applicant Shri R.M.Lal has filed this application under Section 19 of the Administrative Tribunals Act, 1985 to set-aside and quash the impugned order dated 16.7.1996 (Annex.A-1) by which he has been transferred from Carpet Weaving Training Centre (for short 'CWTC') Jhilai, Tonk district of Rajasthan to C.W.T.C. Bhiskuri, Mirzapur (U.P.). He has further prayed that the

respondents may be directed to allow the applicant to discharge his duties of Carpet Training Officer at C.W.T.C., Jhilai (Tonk) (Rajasthan) as was being performed by him prior to the issuance of the order dated 16.7.1996 (Annex.A-1).

2. The application has been opposed by the respondents by filing a written reply to which no rejoinder has been filed. The stand of the respondents has been that the applicant has been transferred in the administrative exigencies and in public interest. It has been denied that the applicant has been transferred because of any malice or to harass the applicant.

3. With the consent of the learned counsel for the parties, this OA is disposed of at the stage of admission.

4. I have heard the learned counsel for the applicant as also the learned counsel for respondents and have also perused the records.

5. The main ground of the applicant to challenge the impugned order dated 16.7.1996 is that because he has filed an earlier OA No.431/95 R.M.Lal vs. Union of India and others, which is pending consideration in which he has claimed fixation of his pay, he has been transferred to Bhiskuri, Mirzapur. The other contention is that the transfer order is in violation of the policy declared by the department vide Annexure A-2 dated 16.11.1994.

6. On the contrary, it has been vehemently argued by the learned counsel for the respondents that the applicant in pursuance of the impugned order dated 16.7.1996 has already been relieved ~~on 25.7.1996~~ dated 25.7.1996 which is evident from the order dated 23.7.1996 (Annexure R-1). It has also been urged by the learned counsel for the respondents that pursuant to the impugned order the applicant has also moved an application on 25.7.1996 to sanction him one month's advance salary and TTA advance alongwith payment of LTC bill and reimbursement of tuition fees etc. In compliance of which, the respondents have already sanctioned to the applicant a total amount of Rs.15,466/- as is evident from Annexure R-9 dated 5.8.1996 and a cheque of the same amount has already been despatched to the applicant at his residential address. The learned counsel for the respondents has also urged that it being the settled position of law that unless an order of transfer is in violation of statutory rules or provisions or is actuated by malice on the part of the employer, the Courts/Tribunal should not interfere. This position of law has been declared by Hon'ble the Supreme Court in the case of N.K.Singh vs. Union of India, 1994(28)ATC 245(SC) wherein it has been laid down that in cases of transfer interference is justified only in case of malafides or infraction of any professed norm or principle. Where career prospects remain unaffected and no detriment is caused, challenge to the transfer must be eschewed. This principle applies with full force

in the instant case of the applicant as well where career prospects of the applicant are not jeopardised, his transfer being in administrative exigencies.

7. Besides the above settled position of law since the applicant has asked for an advance of TTA, advance salary alongwith other payments which have already been despatched to the applicant by the respondents on 5.8.1996, it cannot be inferred that the applicant has been transferred on account of some malice on part of the respondents, because of his filing an earlier OA before this Tribunal. Had it been so, he could have raised this issue forth / in his application of 25.7.1996 through which he has asked for advance. Moreover, the guidelines as laid down under Annexure A-2 are directory in nature and these guidelines have been issued to maintain an equilibrium amongst the various employees of the Organisation. The applicant having been relieved vide order dated 23.7.1996 (Annex.R-1) and since no material has been brought forth on behalf of the applicant to suggest that he has been transferred because of malice on part of any of the official of the respondents or with a view to harass him, there is no ground to interfere in the alleged impugned order dated 16.7.1996 (Annex.A-1) whereby not only the applicant but seven other persons have been transferred from one place to other out of which only two persons have been transferred at their own request. The learned counsel for the respondents has also drawn attention to two more orders issued on the

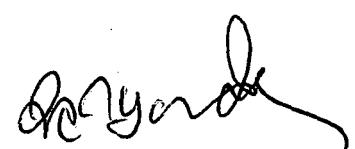
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same date through each of which eight officers have been transferred from one place to other.

8. In view of above, it cannot be said that the impugned order issued by the respondents suffer from any infirmity or illegality or actuated by malice.

9. Consequently the C4 having no substance and merit is hereby dismissed at the admission stage with no order as to costs.


(Ratan Prakash)
Member (J)