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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No.630/1996

Date of order: 27.2.1997

Kamal Sharma S/o Shri Ramavtar Sharma, aged around 35 years,
resident of A-22, Mahesh Nagar, Tonk Phatak, Jaipur.

.. Applicant

Versus

1. Union of India through Principal Secretary, Govt. of India,
New Delhi.
2. Superintending Engineer (Co-ordination) Civil, Indraprastha
Bhavan, Indraprastha Estate, New Delhi.
3. Sh. AK Murarka, Superintending Engineer (Co-ordination)
Electrical, having additional charge of coordination civil,
Indraprastha Bhavan, Indraprastha Estate, New Delhi.
4. Superintending Engineer (Valuation), Income Tax Department,
C-70, Bhagwan Das Road, C-Scheme, Jaipur.
5. Valuation Officer, Income Tax Department, C-70, Bhagwan Das
Road, C-Scheme, Jaipur.
6. Ravindra Singh Chhokar, Junior Engineer, Valuation Cell,
Income Tax Department, Jaipur.

.. Respondents

Mr. Rajendra Soni, counsel for the applicant

Mr. N.K.Jain counsel for respondents Nos. 1 to 5

Mr. Karan Pal Singh, Counsel for respondent No.6

CORAM:

Mr. Ratan Prakash, Judicial Member-

ORDER

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant Shri Kamal Sharma has approached this Tribunal
under Section 19 of the Administrative Tribunals Act, 1985 to
seek a direction against the respondents to quash the impugned
order dated 29.11.1996 (Ann.A6) whereby the applicant has been
transferred to Jaipur Central Division-2 from Income Tax
Department, Evaluation Cell, Jaipur. On 2.12.1996 short

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notices were issued to the respondents and operation of this order dated 29.11.1996 was stayed qua the applicant. All the respondents have put in their appearance and they have contested the application by filing written reply. Respondent No.6 has also filed a separate reply. The applicant has also filed a rejoinder today to the replies filed by the respondents.

2. The facts leading to this application in brief are that the applicant was working in Sub-Division Deoli, Central Division Ajmer (CPWD). He made an application for his transfer on the ground of sickness of his father. Accepting his application, the applicant was transferred to Valuation Cell in Jaipur vide order dated 6.11.1996 (Ann.A2) from Ajmer Central Division. By the same order respondent No.6 Shri P.S.Chhokar was posted to Jaipur Central Division-2 from Valuation Cell, Jaipur. Consequently, the applicant joined his duties at the office of S.E.(Valuation), Jaipur on 14.11.1996 after giving his joining report on 13.11.1996.

3. It is the grievance of the applicant that to his utter shock and surprise, the respondent No.3, Superintending Engineer (Coordination) Electrical, without any administrative exigencies and holding only an additional charge of SE (Coordination) Civil, cancelled the earlier order dated 6.11.1996 (Ann.A1) and issued the impugned order dated 29.11.1996. It is also averred by the applicant that this order dated 29.11.1996 was issued because of the malafide on the part of respondent No.3 and should be quashed.

4. The stand of the respondents has been that respondent No.3 was competent authority when the impugned order dated 29.11.1996 was issued. There has been no malafide on his part as this order has been passed in the exigencies of administration and in the public interest. This reply has also been

supported by an Affidavit (Ann.F1) of Shri A.K.Murarka, respondent No.3. It has also been averred on behalf of the respondents that since the applicant has remained at Jaipur from August, 1982 to July, 1990 and from April, 1991 to April, 1996 On a consideration of a representation of respondent No.6, Shri R.S.Chhokar, the earlier order dated 6.11.1996 was withdrawn and order dated 29.11.1996 has been issued whereby Shri R.S.Chhokar has been posted in Evaluation Cell. This is also the stand of respondent No.6, who has filed a separate reply.

5. I heard the learned counsel for the applicant Shri Rejendra Soni and Shri H.K.Jain, counsel for the official respondents and Shri Karan Pal Singh, counsel for respondent No.6 and have examined the record in great detail. With the consent of the parties, this OA is being disposed of at the stage of admission.

6. It has been vehemently argued by the learned counsel for the applicant that respondent No.3 has no authority to consider the representation made by respondent No.6 to transfer him to the Valuation Cell as the matter has to be dealt with only by a Hard Cases Committee constituted vide office memorandum dated 12th June, 1991 (Ann.A7) filed with the rejoinder. The ground of malafide against respondent No.3 has also been urged. It has also been argued by the learned counsel that vide his representation dated 28.9.1996 (Ann.1) he has sought transfer to Jaipur because of serious illness of his father. In support of this, a number of documents have been filed with the OA. It has, therefore been urged that if the impugned order dated 29.11.1996 is not quashed, he would not be able to lookafter his ailing father at Jaipur.

7. On the other hand, the argument of the learned counsel for the official respondents has been that the applicant

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having remained at Jaipur for almost 14 years; therefore, has no claim to stay at Jaipur; instead respondent No.6 who has been posted at Jaipur for the first time in February, 1996 has been rightly posted in the Valuation Cell. Attention has also been drawn to the request made by the applicant in his representation dated 28.9.1996 (Ann.A1) wherein the applicant had sought to accommodate him at any of the 3 places: i) posting at Jaipur Circle (Planning) ii) Jaipur Central Division and iii) Any other five days week office at Jaipur. On this basis of this, it has been urged that vide impugned order dated 29.11.1996 the applicant having been adjusted and accommodated at Jaipur Central Division-2, he should not have any cause of grievance and the OA deserve rejection.

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8. I have given anxious thought to the arguments advanced on behalf of both the parties. It is settled law that the Courts and the Tribunals should not interfere in cases of transfer unless it is on account of malafide of a particular authority or in violation of statutory rules, guidelines or provisions. It is always the discretion of the administrative authorities to post an individual to a place or to the other and that too in the exigencies of administration and in the interest of service. The applicant himself vide his representation dated 28th September, 96 has asked to be accommodated at any of the three places mentioned above. By the impugned order dated 29.11.1996, the applicant has now been posted in the Jaipur Central Division-2. It, therefore, does not lie in the mouth of the applicant to say that he has not been accommodated to a place asked for by him. The learned counsel for the applicant has urged that vide Ann.A1, the applicant has asked to be transferred to Jaipur only and hence he should have

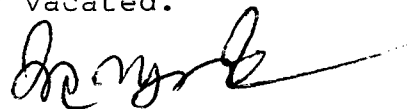
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been allowed to stay in the Valuation Cell at Jaipur as ordered by order dated 6.11.1996. To me this argument does not impress. When the applicant has given an option in unequivocal terms to be posted in any of the three places and he having been accommodated at one of the three places, cannot now complain about his posting in Jaipur Central Division-2.

9. In the matter of malafide raised on behalf of the applicant, it is suffice to mention that no particulars, whatsoever, have been given by the applicant on the basis of which it could be assessed that respondent No.3 has any ill-will or malafide against the applicant. The contention to this effect has also been refuted by respondent No.3 by way of filing a duly sworn affidavit. Another plea raised on behalf of the applicant is that representation of Shri Chhokar, respondent No.6 could have been dealt with and disposed of only by a Hard Cases Committee as required by office memorandum dated 12th June, 1991 (Ann.A7) and that the Superintending Engineer is only required to recommend it. There is no dispute about this proposition but it does not deprive the competent authority to exercise his administrative powers including the power to transfer an official from one place to another. In cases of general transfer no reference to Hard Cases Committee is required. Respondent No.3 has also stated in his affidavit that the impugned order dated 29.11.1996 has been issued in the interest of service and in the exigencies of administration. The argument to the contrary raised on behalf of the applicant is, therefore, not acceptable.

10. For all the aforesaid reasons, this OA is without substance and is dismissed with no order as to costs. The interim direction issued on 2.12.1996 is hereby vacated.



(Ratan Prakash)
Judicial Member