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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.144/98

Date of order: 5/4/2000

Dr.Priya Thawani, W/o V.R.Thawani, P/o 476, Adarsh Nagar,  
Jaipur, last worked as Medical Officer, CGHS, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt. of India,  
Deptt. of Health, New Delhi.
2. The Director General of Health Services, Nirman Bhawan,  
New Delhi.
3. Secretary, National Capital Territory of Delhi, 5, Samnath  
Marg, Delhi.
4. Additional Director, CGHS, Radha Krishna Hotel, Opp. Fly.  
Station, Jaipur.
5. K.B.Saxena, Secretary of Health Department, Mini. of  
Health & Family Welfare, New Delhi.

...Respondents.

Mr.K.L.Thawani - Counsel for the applicant

Mr.V.S.Gurjar - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash the impugned order of transfer dated 19.5.97, being arbitrary, illegal, mala fide and in violation of Articles 14 and 16 of the Constitution of India.

2. By the impugned order dated 19.5.97, the applicant was transferred from the post of Medical Officer, belonging to CGHS, Jaipur, to the Govt. of National Capital Territory of Delhi. The contention of the applicant has been that she only joined as Medical Officer at Jaipur on 28.9.95 whereas Doctors for the last 5 to 15 years posted at Jaipur were not disturbed and the impugned order of transfer was issued by pick and choose which is discriminatory. The applicant has also stated that the transfer was made to take vengeance because the applicant has won in the litigation. The applicant has also stated that the impugned order of transfer is not in exigencies of service and the transfer of the applicant from the post of Medical Officer, CGHS to National Capital Territory, Delhi (another Govt.) is illegal and liable to be quashed.

3. Reply was filed. In the reply it has been stated that on the telegram given by the Additional Director, CGHS, Jaipur, the impugned order of transfer was issued on 19.5.97 in administrative

and cannot be accepted.

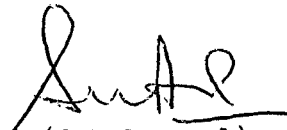
10. No malafide could be established by the applicant. Malafides can be established either by direct evidence or by facts and circumstances of the case. In the facts and circumstances of this case, no inference can be drawn that the impugned order of transfer was based on malafide of the respondents.

11. Regarding personal difficulties, the department is the sole judge to decide whether personal difficulties of the applicant are such on the basis of the same the applicant can be adjusted at a place of her choice as transfer of the employee is incidence of service and the employee cannot as a matter of right seek his transfer at a particular place unless the transfer is made on malafide grounds against the statutory rule.

12. In view of the above, I am of the considered opinion that the Govt of India was competent to transfer the applicant from the post of Medical Officer, CGHS, to the National Capital Territory of Delhi.

13. Therefore, looking to the facts and circumstances of this case, I do not find any basis to interfere with the impugned order of transfer and this O.A is devoid of any merits which is liable to be dismissed.

14. I, therefore, dismiss this O.A with no order as to costs.

  
(S.K. Agarwal)

Member (J).