

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.119/99

Date of order: 7.4.1999

Shahabuddin S/o Late Noor Mohammed, aged about 51 years,
Assistant Personnel Officer, Workshop, O/o Chief Works
Manager, Western Railway, Ajmer, resident of 368/6, Gali
Langer Khana, Ajmer.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. The Chief Personnel Officer Western Railway, Mumbai.
3. The Chief Works Manager, Western Railway, Ajmer.
4. Shri S.M.Johri, Assistant Personnel Officer, Western Railway, Jaipur.

...Respondents

Mr. P.V.Calla - Counsel for applicant.

Mr. Manish Bhandari - Counsel for respondents

CORAM:

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.RATAN PRAKASH, JUDICIAL MEMBER.

Applicant herein Shahabuddin has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, seeking a direction to quash the impugned order dated 10.3.1999 (Annex.A1) whereby he has been transferred from the post of Assistant Personnel Officer (W), Western Railway Ajmer to Jaipur as Officiating APO.

2. The application has been opposed by the respondents by filing reply to which the applicant has also filed rejoinder to-day. On 16.3.1999, the learned counsel for the applicant has been heard on the point of interim relief and this Tribunal vide order dated 16.3.1999 has stayed the operation of the impugned order at Annex.A1 dated 10.3.1999, qua the applicant till the next date fixed. This stay order continued till today.

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3. I heard the learned counsel for the parties at great length and examined the records in great detail.

4. The case of the applicant in brief is that after he was promoted as Assistant Personnel Officer and posted at Ajmer, he has been frequently transferred and that the present transfer of the applicant to Jaipur is actuated by malice on the part of the transferring authority merely to accommodate one Shri S.M.Johri, respondent No.4. He, therefore, prayed that the impugned order be quashed.

5. The respondents' stand is that the applicant in his service career has through-out been at Ajmer; more particularly also after he was promoted to the post of APO in the year 1993, except for a short spell of 10 or 12 days in the year 1993 when he was posted at Mahalaxmi, Mumbai. It has been urged that neither the impugned order as at Annx.Al has been issued on account of any malafide of any authority or in violation of any statutory provision or the guidelines of transfer of officers of the level of the applicant. It has, therefore been prayed that this application deserves rejection.

6. Both the learned counsel for the parties have cited a number of authorities in the matter. However it is now been settled law that in the matter of transfer the jurisdiction of the Tribunal is restricted one. An order of transfer can be interfered with by a Court or Tribunal if it is either in violation of any specific statutory rule or provision or is actuated by malice on the part of the competent authority. The position of law on the point of transfer of Govt employees was laid down by Hon'ble the Supreme Court in the case of Shilpi Bose (Mrs) Vs. State of Bihar; 1991 Supp. (2) SCC 659 to 661, wherein it has been laid down that "the Courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of

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malafide. Govt servant holding a transferable post has no vested right to remain posted at one place or the other". This view of the Hon'ble Supreme Court was reiterated by the Apex Court in the case of N.K.Singh Vs. Union of India (1994) 28 ATC 246(SC), wherein it has been laid down that interference by a Court or Tribunal is justified only in cases of malafides or infraction of any professed norm or principle. It has further been observed in this case that where career prospects remain unaffected and no detriment is caused, challenge to transfer must be eschewed.

7. In the instant case, the applicant has been working at Ajmer on the post of A.P.O for almost over 6 years and now by the impugned order Annx.Al he has been transferred to Jaipur. The argument of the learned counsel for the applicant that the impugned order has been issued to accommodate respondent No.4 does not inspire confidence. The respondents in their reply have clearly stated that the request of transfer by respondent No.4 was pending since the year 1994 and had the applicant been transferred only on the basis of complaints made in the year 1996, he could have been transferred earlier. Moreover, the transfer order as at Annx.Al has been issued by the respondent Department in the month of March 1999 i.e. prior to the conclusion of the normal academic session in the educational institutions. Merely because the children of an employee are studying at a particular place and an order of transfer is issued either after the end of the academic session or prior to the starting of the academic session; cannot be a justiciable ground for quashing of an order of transfer more so when it has come on record that the applicant had remained posted mostly at Ajmer through out his service career. The place to which the applicant who is a Railway employee has now been shifted is not more than 130 Kms from Ajmer. Further, though the applicant is alleging malafide on the part of the respondents' officers but no officer by name has been impleaded in

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the O.A nor any details have been given about the malafide on the part of such officer/officers.

8. For all the aforesaid reasons and the finding that there has been no malafide on the part of the respondents department in the issuance of the impugned order as at Annx.Al and also that there being no violation of any statutory rule or provision regarding guidelines on transfer, it cannot be said that the impugned order dated 10.3.99 (Annx.Al) is illegal or bad. Accordingly this O.A has no substance and is dismissed at the stage of admission with no order as to costs. The interim direction issued on 16.3.1999 is hereby vacated. The O.A stands disposed of accordingly.



(Ratan Prakash)

Judicial Member.