

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.259/99

Date of order: 31/3/2000

1. Heera Lal, S/o Shri Nanga, R/o Railway Colony, Sawaimadhopur, working as khallasi.
2. Shyam Babu, S/o Shri Ram Babu, R/o Railway Colony, Sawaimadhopur.
3. Om Shiv, S/o Shri Bangali Ram, R/o Near Railway Colony, Sawaimadhopur, working as Khallasi.

...Applicants.

Vs.

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, W.Rly, Jaipur Divn, Jaipur.
3. Senior Divisional Mechanical Engineer (Establishment) DRD Office, W.Rly, Jaipur Divn, Jaipur.

...Respondents.

Mr.P.N.Jati - Counsel for the applicant

Mr.U.D.Sharma - 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 applicants make a prayer to quash and set aside the order of transfer dated 2.9.98 by which the applicants were transferred from Sawaimadhopur to Jaipur.

2. In brief the case of the applicants is that they have been transferred from Sawaimadhopur arbitrarily and without any rhyme or reason on pick and choose basis by retaining juniors at Sawaimadhopur and that they were working at Sawaimadhopur on the basis of an order of the Tribunal upto the academic session. It is stated that the impugned order dated 2.9.98 transferring the applicants is illegal and arbitrary. Therefore, they filed this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that two posts of Khalasis on which applicants No.1 and 3 were working and the post of Cleaner on which applicant No.2 was working at Sawaimadhopur were transferred to Jaipur, therefore, the applicants were transferred to Jaipur. It is also stated that O.A No.370/98 was filed by Gopal & eight Ors, challenging the transfer order dated 2.9.98 and applicants Heera Lal, Shyam Babu and Om Shiv were also applicants No.2, 5 & 7 respectively in the said O.A. This Tribunal had disposed of O.A No.370/98 vide order dated 16.2.99. Another O.A No.118/99 was also filed challenging the order dated 3.3.99 passed by respondent No.2, on the representation submitted

by the applicants on 22.2.99 as per the direction given in O.A No.370/98. In O.A No.118/99, the applicants made a prayer to accommodate them till the end of the academic session, i.e. May 99 and vide order dated 1.4.99 the O.A was disposed of with the direction to retain the applicants at Sawaimachpur till the end of the academic session. Therefore, it was not expected from the applicant to file another O.A, therefore the same is barred by the principle of res-judicata. In the reply it has been made clear that the reason for transfer of certain posts including the post of Khalasis and Cleaner to Jaipur, therefore, the applicants were transferred to Jaipur. It is denied that any person junior to the applicants had been retained at Sawaimachpur. Therefore, the applicants have no case for interference by this Tribunal.

4. Heard the learned counsel for the parties and also perused the whole record.

5. No doubt the applicants were transferred to Jaipur on account of transfer of the posts from Sawaimachpur and there is no posts of Khallasis and Cleaner available at Sawaimachpur as it has been explained by the respondents in their reply. No malafide on the part of the respondents could be established and the applicant failed to establish any infraction of any statutory norms in issuing the orders of the transfer. This Tribunal can only interfere in the order of transfer when it is issued on the ground of malafides or in violation of any statutory norms. In the State of M.P Vs. S.S.Kaurav, 1995 SCC(L&S) 666 and in Rajendra Ray Vs. UOI, 1993 SCC (L&S) 138, Hon'ble Supreme Court observed that transfer order which is not malafide and not in violation of service rules and issued with proper jurisdiction cannot be quashed by the Court.

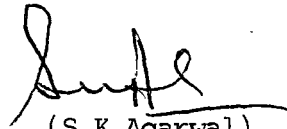
6. In N.K.Singh Vs. UOI (1994) 28 ATC 246, the Hon'ble Supreme Court observed that only realistic approach in transfer matter is to leave it to the wisdom of the superiors to take the decision unless the decision is vitiated by malafides and in violation of any professed norms or principles governing the transfer which alone can be scrutinised judicially.

7. In Home Secretary U.T. Chandigarh Vs. Darshjeet Singh Grewal 1993(4) SCC 25, it was held by Hon'ble Supreme Court that Executive authority has a power to transfer an employee even if one has not completed normal tenure and can also be allowed to continue even after the said normal tenure.

8. No statutory rule or authority was produced by the applicants to prove that seniority is only the criteria for making transfer of an employee from one place to another.

9. In the instant case, the categorical contention of the respondents have been that the posts of Khallasis and Cleaner were transferred to Jaipur due to certain administrative exigencies, therefore, the applicants who were holding the post of Khallasis and Cleaner were transferred to Jaipur. Therefore, I do not find any infirmity in the impugned order of transfer. It is also worthwhile to mention here that series of litigation has already been filed challenging the impugned order of transfer dated 2.9.98 and by filing this O.A, the applicant is not entitled to any relief sought for. I am, therefore, of the considered view that the applicant has no case for interference by this Tribunal and this O.A being devoid of any merit is liable to be dismissed.

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


(S.K. Agarwal)
Member (J).