

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.260/99

Date of order: 31/3/2000

Harpal, S/o Shri Bajranga, R/o Village Thingla, Sawai
Madhopur, working as Fitter/Welder, C.W., Sawaimadhopur.

...Applicant.

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 applicant makes a prayer to quash and set aside the order of transfer dated 2.9.98 by which the applicant was transferred from Sawaimadhopur to Jaipur.

2. In brief the case of the applicant is that he has been transferred from Sawaimadhopur arbitrarily and without any rhyme or reason on pick and choose basis by retaining his juniors at Sawaimadhopur. It is stated by the applicant that he was earlier transferred from Jaipur to Sawaimadhopur at his request due to the illness of his daughter who is still ill and the applicant has not completed the tenure of 4 years as per rules of the department dated 13.11.97. Therefore, he filed this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that the post of Welder on which the applicant was working at Sawaimadhopur was transferred to Jaipur, therefore, the applicant was 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 applicant Har Pal was also applicant No.3 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 Sawaimadhopur till the end of

Sube

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 Welder to Jaipur, therefore, the applicant was transferred to Jaipur. It is denied that any person junior to the applicant had been retained at Sawaimadhopur. It is also stated that better medical facilities are available at Jaipur in comparison to Sawaimadhopur for effective treatment of the daughter of the applicant and the applicant has no case for interference by this Tribunal.

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

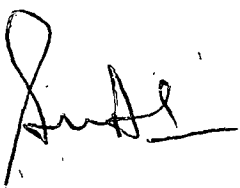
5. No doubt the applicant was transferred to Jaipur on account of transfer of his post of Welder from Sawaimadhopur and there is no post of Welder available at Sawaimadhopur as it has been explained by the respondents in their reply. No malafide on the part of the respondents could be established and 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 applicant to prove that seniority is only the criteria for making transfer of an employee from one place to another.

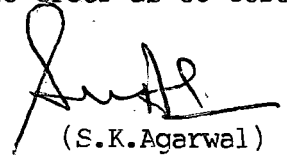
9. In the instant case, the categorical contention of the respondents have been that the post of Welder was transferred to Jaipur due to certain administrative exigencies, therefore, the



(A)

applicant who was holding the post of Welder was 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, 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).