

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of order : 10.5.2000

S.B. Civil Writ Petition No. 2775/1998
T.A. 1/2000

Mahbook Khan s/o Shri Fazu Khan aged about 34 years
R/o Village Dayara Via Khandela, Distt. Sikar (Raj.)

.... Applicant

Versus

1. Union of India through Secretary to the Govt. of India Ministry of Human Resources, Department of Education, New Delhi.
2. The Deputy Director, (I/C) Regional Officer, Navodaya Vidhyalaya Samiti, A-12, Near Petal Factory, Shastri Nagar, Jaipur.
3. The Principal, Jawahar Navodaya Vidhyalaya, Kuchaman City, Distt. Nagaur, Rajasthan.

.... Respondents

None present for the applicant.
Mr. V.S. Gurjar, Counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)
Hon'ble Mr. N.P. Nawani, Member (Administrative)

ORDER

(PER HON'BLE MR. N.P. NAWANI, MEMBER (ADMINISTRATIVE))

The applicant prays that the impugned order dated 15.4.1998 (Annexure A-1) transferring him from Nagaur (Raj.) to Butana (Haryana) and relieving order dated 23.4.1998 may be quashed and respondents may be directed to allow the applicant to continue at Nagaur.

2. Facts, as stated by the applicant, are that he was working as Chowkidar at Jawahar Navodaya Vidyalaya, Nagaur (for short JNVN) since 1992 when I/C Navodaya Vidyalaya (NV for short) samiti vide order dated 15.4.98 transferred him to NV Butana and the Principal JNVN relieved him vide

...2/-

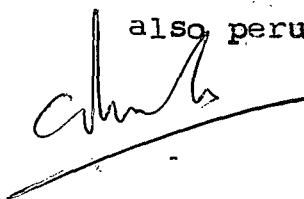
11

order dated 23.4.1998 with direction to report at N.V. Butana on or before 28.4.1998. It is contended by the applicant that his transfer order was on administrative grounds but no administrative reasons are indicated in the body of the order and it has actually been made on "pick and choose" basis and, therefore, is violative of Articles 14 & 16 of the Constitution of India. It is stated that the applicant is the only earning member in the family and his old father and ^{mother are also} and continuously under treatment for several diseases requiring regular medical check up. This sudden transfer to another state, at a place more than 900 Kms., has caused mental agony to him and his family members. He made a representation (Annexure A-3) and not getting any relief, filed this OA.

3. The respondents filed a preliminary objection and a detailed reply opposing the reliefs sought and challenging the maintainability of the petition. It has been stated that in the initial order of appointment, it has clearly mentioned that the applicant will be liable to be transferred to anywhere in India (Annexure R-1) and, therefore, the transfer order is perfectly legal, valid and in consonance with the service law jurisprudence. The grounds of parents, being old and sick, are not worthy of being grounds to attack the transfer order. It has also been stated that the applicant is working in a totally residential school and, therefore, averments made regarding transfer to another state and at a distance of 900 Kms. are of no help to the applicant. Case law has profusely been cited to support the contentions of the respondents.

4. The applicant had earlier filed a Civil Writ Petition in the High Court of Judicature of Rajasthan at Jaipur. He had also obtained a stay from the High Court vide its interim order dated 27.8.1998. As the NV Samiti has been brought under the jurisdiction under the provision of sub-section (s) of Section 14 of the Administrative Tribunals Act, 1985 w.e.f. 1.1.1999, the Writ Petition has been transferred to this Bench of the Tribunal and registered as TA No. 1/2000.

5. We have heard the learned counsel for the respondents and the learned counsel for the applicant has been given one week's time to file written submissions, if any. We have also perused all the records.




72

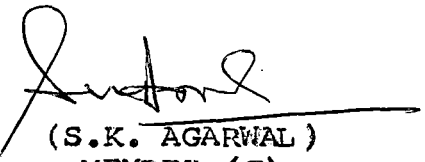
6. It is well settled law that the High Court or Tribunal can interfere with transfer order only if it violates any statutory provision or is vitiated by malafides. A catena of the judgements of the Apex Court including the famous case of S.L. Abbas (JT 1993(3) SC 678) as also the recent order of the Allahabad Bench of the Tribunal in the case of Dr. J.D. Srivastava vs. Union of India reported in 1999(3)SLJ 123 reinforce the law that has progressed in this regard.

7. After having carefully considered the rival contentions, we come to the conclusion that the impugned order of transfer dated 15.4.1998 suffers neither from the vice of malafides nor has it violated any statutory provision.

8. We, therefore, find no justification to interfere with the orders dated 15.4.1998 and 23.4.1998 and the OA is accordingly dismissed with no order as to costs.

9. The stay granted vide order dated 27.5.1998 also stands vacated.


(N.P. NAWANI)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)