

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.76/2001

Date of order: 11/4/2001

Bijendra Singh, S/o Laxman Singh, R/o A/48, Shivpuri Yojna, Hatwara Road, Jaipur, working as Hamel, Weaver Service Centre, Civil Lines, Jaipur.

...Applicant.

Vs.

1. Union of India through its Secretary, Mini. of Textile, Udyog Bhawan, New Delhi.
2. Zonal Director, North Zone, Weaver Service Centre, Weavers Colony, Bharatnagar, New Delhi.
3. Sh.B.B.Paul, Dy.Director, Kamdhenu Commercial Complex, Civil Lines, Jaipur.
4. Sh.Kalu Ram Balai, Hamel, through Zonal Director, North Zone, Weaver Service Centre, Bharatnagar, New Delhi.

...Respondents.

Mr.P.P.Mathur - Counsel for applicant

Mr.T.P.Sharma - Counsel for respondents.

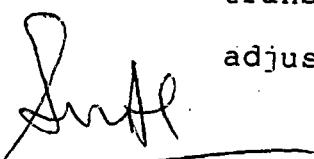
CORAM:

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

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

In this O.A under Sec.19 of the Administrative Tribunals Act, 1985, the prayer of the applicant is to quash the impugned order of transfer dated 19.12.2000 by which the applicant was transferred from Jaipur to Varanasi.

2. The grievance of the applicant against the impugned order of transfer is that the applicant is a Class IV employee and was transferred on his own request from Varanasi to Jaipur but he was transferred from Jaipur to Varanasi ^{again} only after the period of 2 years. It is stated by the applicant that his family circumstances do not permit him to go to Varanasi on transfer and he has been transferred only with a view to adjust one Sh.Kalu Ram Balai, at Jaipur, who has favour of



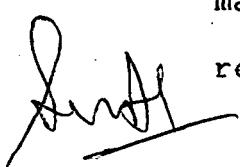
Sh.B.B.Paul, Resp.No.3. It is further stated that the applicant was assigned duties of Driver, Watchman and Photo copy Machine Operator and the applicant claimed overtime in lieu of additional work due to which the controlling officer became annoyed and threatened to transfer the applicant in case he would not stop pressing his demand. Ultimately, the impugned order was passed on the D.O letter dated 14.12.2000 in the mid-session. Therefore, the applicant filed the O.A for the relief as above.

3. A short reply and detailed reply were filed. In the reply, it is stated that the applicant was transferred in public interest. It is also stated that after the impugned order of transfer dated 19.12.2000, the applicant has been relieved from the present place of posting and he has also been paid advance Rs.3000/- as T.A & D.A. It is also stated that the applicant was not relieved on account of his personal difficulties upto 31.1.2001 and thereafter on 6.2.2001, he was relieved. Therefore, the applicant has no case for interference by this Tribunal and the O.A is liable to be dismissed.

4. Rejoinder has also been filed reiterating the facts as stated in the O.A.

5. Heard the learned counsel for the parties and also perused the whole record for final disposal of the O.A at the stage of admission.

6. It is not disputed that the applicant was allowed to remain at Jaipur upto the month of January 2001 and he was relieved on 6.2.2001. It is also an undisputed fact that the applicant was also paid advance TA & DA for joining the post. The applicant was transferred in public interest and no malafides could be established by the applicant against respondent No.3, Sh.B.B.Paul and I also do not find any



violation of the statutory norms in issuing the impugned order of transfer.

7. In Shilpi Bose Vs. State of Bihar, 1992 SCC(L&S) 127, the Hon'ble Supreme Court has observed that even if transfer orders are issued in violation of executive instructions of orders, the court ordinarily should not interfere with the said order, and affected parties should approach the higher authorities in the department. It is for the administration to take appropriate decision in the matter of transfer on administrative grounds.

8. In State of M.P. Vs. S.S.Kaurav, 1995 SCC (L&S) 666, and in Rajendra Roy Vs. Union of India, 1993 SCC(L&S) 138, the 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.

9. In N.K.Singh Vs. Union of India, 1994 SCC(L&S) 1130, their Lordships of the Hon'ble Supreme Court in para 2 of the judgment had inter alia observed that only realistic approach in transfer matters is to leave it to the wisdom of the superiors to take the decision unless the decision is vitiated by malafide or infraction of any professed norms or principle governing the transfer which alone can be scrutinised judicially.

10. In Abani Kanta Roy Vs. State of Orissa, (1996) 32 ATC 10, the Hon'ble Supreme Court has held that "it is settled law that a transfer which is an incident of service, is not to be interfered with by the court unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any professed norm or principles governing a transfer."

11. In the instant case, admittedly, the applicant has been transferred in public interest, the applicant sought time for relieving which was granted by the respondents and ultimately

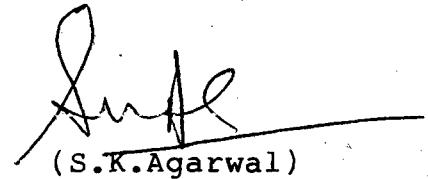


the applicant was relieved on 6.2.2001. Therefore, in my considered opinion, the applicant has no case for interference by this Tribunal.

12. As regards personal difficulties are concerned, the applicant is free to approach the departmental authorities for redressal of his grievances and the department will be competent enough to pass appropriate order, considering the difficulties of the applicant sympathetically.

13. I, therefore, dismiss the O.A having no merit. The applicant shall be at liberty to approach the departmental authorities for redressal of his grievance by a representation and the departmental authorities will be free to take decision sympathetically upon the grievances of the applicant.

14. No order as to costs.



(S.K. Agarwal)

Member (J).