

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 21st August, 2001

OA No.361/2001

B.S.Jaswal s/o Shri Sadharam Jaswal r/c P/45/2 Peru Line Jaipur Cen. Jaipur at present working as JE (OS&C), MESHOCWE, Jaipur

..Applicant

Versus

1. Union of India through the Secretary/Defence, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, Army H.Q. Kashmiri House, D.H.Q.P.O., New Delhi.
3. Command Chief Engineer H.Q. Southern Command, Pune.
4. H.Q. Chief Engineer Jaipur Zone, Jaipur.
5. Board of Officer for local posting/transfer through SO-I (PLG) HQ Chief Engineer, Jaipur Zone.

.. Respondents

Mr. P.S.Sirohi, counsel for the applicant

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CORAM:

Hon'ble Mr.A.K.Mishra, Judicial Member

Hon'ble Mr.A.P.Nagrath, Administrative Member

ORDER

Per Hon'ble Mr. A.K.Mishra, Judicial Member

Applicant has challenged the transfer order Ann.Al dated 9th August, 2001 by which he was transferred from the office of CWE to the office of CEJZ, Jaipur on the ground that this transfer order is in violation of the departmental guidelines issued by the Government of India, Ministry of Defence and there is no administrative exigency in transferring the applicant. The applicant is to retire in the near future i.e. within a year and half and, therefore, there was no necessity for disturbing him. It is also stated by the applicant that the post on which the applicant is being transferred was held by the

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applicant earlier and as per the guidelines, a person cannot be re-transferred on the post he had held earlier. One more ground taken by the applicant is that on representation of certain other employees, they were adjusted and transfers were cancelled and thus, the department has discriminated against the applicant. In view of the above submissions, the applicant has also prayed for staying the operation of the impugned transfer order.

2. Considered the submissions of the learned counsel for the applicant and to have gone through the OA. The law relating to transfer is more than settled and the transfer order can only be interfered with when the same is passed due to malafide and for extraneous consideration. The transfer order can also be interfered with, if the same is in violation of the statutory guidelines or rules framed by the Government. In the instant case, the departmental guidelines or rather guidelines issued by the Ministry of Defence are broad guidelines and they have no statutory force. It is for the departmental authorities to consider as to which place a particular individual is to serve. It is not for the Government employee to point out that he be posted on a particular post and not be transferred to other place. The peculiar thing that we see in the instant transfer order is that the applicant has not been disturbed from his posting place i.e. he is not being transferred out of Jaipur. Transferring the applicant from one seat to another in the same city, may be in the different zone, cannot be said to be violative of guidelines relating to not to transfer a person retiring in near future. In this case, there was no change of place, therefore, this argument does not hold any force. ^{has been} ~~Not~~ In case of malafide transfer, in the instant case, made on calling for our interference in the matter. ^h when the posting is not of the applicant's likings, it can always be termed as malafide transfer, but malafide alleged should be such that it should lead us to the

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conclusion on the face of it that the transfer order is malafide. In the instant case, there seems to be no such thing. Orders made in administrative exigencies are not to be interfered with. Courts are not supposed to run the administration. It is the departmental authorities who have to see the suitability, requirement and desirability of adjusting a particular person from one post to another or transferring a Government servant from one post to another.

3. In view of this, we do not see any force in the present application and the same is dismissed in limine.

Amrit 21/8/2001
(A.P.NAGRATH)

Adm. Member

Amrit 21/8/2001
(A.K.MISHRA)

Judl. Member