

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 186 of 2003

Jabalpur, this the 27th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)  
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

R.K. Dubey, aged about 52 years,  
S/o Late Ram Vishal Dubey,  
R/o 53, Shanti Nagar, Damoh  
Naka, Jabalpur, Occupation  
Service, Junior Works Manager,  
Gun Carriage Factory,  
JABALPUR (M.P.)

- APPLICANT

(By Advocate- Mr. R.K. Dubey)

VERSUS

1. The Union of India  
Through The Secretary,  
Ministry of Defence,  
NEW DELHI
2. CHAIRMAN/DIRECTOR GENERAL  
Ordnance Factories Board,  
20 Auckland Road,  
Kolkata (West Bengal)
3. SENIOR GENERAL MANAGER  
Gun Carriage Factory,  
JABALPUR (M.P.)
4. JOINT GENERAL MANAGER (Admn)  
Gun Carriage Factory,  
Jabalpur, Distt. JABALPUR (M.P.)
5. ASSISTANT WORKS MANAGER (Admn.)  
Gun Carriage Factory,  
Jabalpur, Distt. JABALPUR (M.P.)
6. SHRI LAXHMAN KUMAR  
Additional General Manager/L,  
Gun Carriage Factory, JABALPUR (M.P.)

- RESPONDENTS

O R D E R (ORAL)

By R.K. Upadhyaya, Member (Admnv.):

This application has been filed against the order of transfer dated 18.01.2003 (Annexure A-6) by which the applicant has been transferred from Gun Carriage Factory, Jabalpur to Ambarnath. The applicant was directed to report

Contd...P/2.

*Consistency*

for duty in the fore-noon of 03.02.2003, at Ambarnath.

2. It is stated by the applicant that he was appointed on 15.01.1971 in Gun Carriage Factory (G.C.F. for short) Jabalpur. He has been transferred frequently. It is claimed that the present transfer order is malafide and "in dearth of any administrative exigency and public interest". Earlier the applicant had filed O.A.No.29/2003, which by order dated 22.1.2003 was disposed of with a direction to the respondents to decide the representation of the applicant. The applicant claims that in spite of the direction of the Tribunal, the respondents have not properly considered the case of the applicant, and have mechanically rejected his representation by order dated 26.02.2003 (Annexure A-14).

2.1 In order to support his plea of malafide, the applicant has impleaded Shri Laxhman Kumar, Additional General Manager/L, Gun Carriage Factory, Jabalpur as respondent No.6. It is stated by the applicant that on 05.09.2002 he was threatened, beaten and misbehaved absurdly by Shri Laxman Kumar, A.G.M/L of GCF, Jabalpur. The applicant had lodged a complaint to the Senior General Manager, GCF Jabalpur on next day, and had requested to take appropriate decision in this regard. According to the applicant, when this fact of complaint came to the knowledge of Shri Laxman Kumar, respondent No.6, a show-cause notice dated 07.09.2002 was issued by the Joint General Manager. It is claimed that on account of this background, the applicant was threatened to be transferred and just <sup>in</sup> two months the impugned order has been issued within 14 months of his posting and just to harass and victimise him with malafide intention and arbitrarily.

*23/9/03*

2.2 The applicant has further stated that he was transferred to Ambarnath in the year 1976 and then in May 1996, he was transferred to Vehicle Factory, Jabalpur and again was transferred to Ordnance Factory, Medak in 1996. In the year 2001, he was transferred to G.C.F. Jabalpur and now by the impugned order dated 18.1.2003 he has been again transferred to Ambarnath. Therefore, the order of transfer, which is malafide and without any administrative exigency deserves to be cancelled.

3. We have considered the arguments advanced by the learned counsel for the applicant and have perused the material available on record. There is no dispute that the applicant holds All India transfer liability. The Hon'ble Supreme Court in the case of National Hydroelectric Power Corporation Limited Vs. Shri Bhawan & another, 2002 (1) SLJ 86 S.C. has held that transfer is an incidence of service and no one can claim for being posted at a particular station as a matter of right. The Hon'ble Supreme Court has further observed as follows:-

"Unless an order of transfer is shown to be an outcome of malafide exercise of power or stated to be in violation of statutory provisions prohibiting such transfer, the Courts or the Tribunals cannot interfere with such orders as a matter of routine, as though they are the Appellate Authorities substituting their own decision for that of Management as against such orders passed in the interest of administrative exigencies of service concerned."

In the light of the observations of the Hon'ble Supreme Court, we find that this Tribunal cannot substitute its decision with that of administrative authorities as a Court of appeal. The incidence narrated by the applicant are merely routine incidence. In the reasoned order dated 26.2.2003 (Annexure A-14) issued by the respondent No.2 in pursuance to the directions of this Tribunal in O.A. No.29/2003 dated 22.1.2003, the respondents have observed

*Amarnath*

as follows:-

"It has been noted that Shri R.K.Dubey earlier as well as in his present representation has made an attempt to cast false allegation against Shri Lachman Kumar, AGM/L by narrating a concocted story. But the said allegation as advanced by Shri Dubey was far fetched and after thought one since Shri Dubey mis-behaved with Shri Lachman Kumar and tried to assault by raising his voice. At that Shri R.K.Dubey was escorted out of the office of Shri Lachman Kumar by his Senior P.A. and Peon.

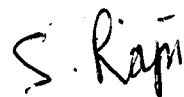
That the transfer of Shri R.K.Dubey, JWM from GCF, Jabalpur to MTF, Ambarnath was purely on administration ground in public interest. This is based on the fact that despite repeated counselling and advise his performance was not upto the satisfactory level which was reflected in his ACR also. Moreover, his behavior with superior officer was not in consonance with the norms of propriety and protocol. He displayed utter disregard for his senior officer and indulged in misbehaving with senior officer while discharging his official duties. The situation assumed such dimension that the presence of Shri Dubey in GCF, Jabalpur would have vitiated the discipline and encouraged insubordination amongst other staffs. Such being the position and Shri Dubey being a Group 'B' Gazetted officer having all India transfer liability; he was transferred to MTF, Ambarnath on administrative ground under such a compelling circumstances."

A perusal of the above indicates that the administration has decided that the presence of the applicant at Jabalpur was not in the interest of administration. It is the prerogative of the administration to decide as to who should be employed where. The respondents have to decide which work is to be taken from an employee at what station. This being the case, we do not find any material to justify any interference in the order of transfer of the applicant from Jabalpur to Ambarnath.

4. For the reasons stated earlier, this application is dismissed at the admission stage itself without any order as to costs.



(R.K. Upadhyaya)  
Member (Adminv.)



(Shanker Raju)  
Member (Judicial)

मृतांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिनिधि जारी किया.....

(1) सचिव, जबलपुर नगरपालिका, जबलपुर

(2) ~~नगरपालिका, जबलपुर नगरपालिका, जबलपुर~~

(3) प्रमुख, जबलपुर नगरपालिका, जबलपुर

(4) ~~नगरपालिका, जबलपुर नगरपालिका, जबलपुर~~

सचिव, जबलपुर नगरपालिका, जबलपुर

Thurston  
जबलपुर  
1.4.03

R. K. Dubey Adm.

Issued  
on 1.4.03  
SS