

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 780 of 2002

Jabalpur, this the 10th day of October, 2003

Hon'ble Shri Anand Kumar Bhatt, Administrative Member
Hon'ble Shri G. Shanthappa, Judicial Member

Vijay Shankar Chourasiya,
S/o Late Shri S.N. Chourasia,
aged about 52 years, working as
Junior Works Manager/TR II,
Vehicle Factory, Jabalpur (M.P.).

... Applicant

(By Advocate - Shri A.K. Tiwari)

V e r s u s

1. Union of India through
Secretary, Ministry of
Defence, New Delhi.
2. Ordnance Factory Board,
through its Chairman, 10-A,
Khudiram Bose Road,
Kolkatta (West Bengal).
3. General Manager, Vehicle
Factory, Jabalpur.

... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By Anand Kumar Bhatt, Administrative Member -

By this Original Application the applicant has requested for quashing the transfer order of the applicant from Vehicle Factory, Jabalpur to Ordnance Factory, Varangaon (Maharashtra).

2. The facts of the case in brief are that the applicant is Junior Works Manager/TR-II in Vehicle Factory, Jabalpur. On 29.11.1999 he was informed by the Deputy General Manager/ Administration that he has been transferred to Ordnance Factory, Itarsi and should keep himself ready and should intimate the date ^{of} release from this factory to move by first week of April, 2000. (Annexure A-1). The applicant gave his willingness for the said ^{posting of} on 05.02.2000 (Annexure A-2).

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The applicant was struck off from the strength of the Vehicle Factory, Jabalpur with effect from 30.06.2000 (Afternoon). However his transfer order was cancelled vide order dated 21.06.2000 (Annexure A-4) and he was later transferred vide order dated 10.09.2001 (Annexure A-5) from Vehicle Factory, Jabalpur to Ordnance Factory, Varangaon. The applicant sent a representation to permit him to join at Ordnance Factory, Itarsi instead of Ordnance Factory, Varangaon. He was relieved from Jabalpur on 01.04.2002, afternoon (Annexure A-8). Vide order dated 27.03.2002 (Annexure A-9) the earlier order dated 10.09.2001 transferring the applicant to Varangaon was kept in abeyance. However vide order dated 04.09.2002 (Annexure A-10) the applicant was informed that the Ordnance Factory Board (for short the Board) has regretted the VFJ's request for retention in this factory and he was directed to report to Ordnance Factory, Varangaon. He again made a representation on 07.09.2002 (Annexure A-11), that as requested previously he may be permitted to join at Itarsi instead of Varangaon. He stated in the representation that he was ready to join at Itarsi, but was not released from Vehicle Factory, Jabalpur. The applicant has requested that either he be retained at Vehicle Factory, Jabalpur or in the alternative he be permitted to join Ordnance Factory, Itarsi.

3. In the reply of the respondents they have stated that the said transfer order has been complied with and the applicant has joined his duties at Varangaon on 27.11.2002 after availing of the joining time and earned leave. The applicant has all India transfer liability and transfer has been made keeping in view the functional requirement of the Department. The respondents have also cited the decisions of the Hon'ble Supreme Court in the case of Union of India Versus H.N.

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Kirtania reported in 1989(3) SCC 455; Gujrat Electricity Board and another versus Atmaram Sungomal Poshani reported in JT 1989(3) SC 20; Mrs. Shilpi Bose versus State of Bihar reported in AIR 1991 SC 532, and State of Madhya Pradesh versus SS Kourav and others reported in 1995(2)SC 498. In these cases the Apex court has held that transfers made on administrative ground or in public interest should not be interfered with unless there are strong and pressing ground, ^{rendering a} ~~entering~~ transfer order illegal on the ground of violation of statutory rules or on the grounds of malafide. It has been held in the second cited case that the transfer of a Government servant from one place to other is an incidence of service. No Government servant or an employee of public undertaking has legal right for being posted at any particular place. Further it was held that transfer from one place to another is necessary in public interest and efficiency in public administration and is generally a condition of service and the employee has no choice in the matter. Mrs. Shilpi Bose's case is also similar to the above. In SS Kourav's case it has been held that the Courts or Tribunals are not the appellate forums to decide on transfer of officers on administrative grounds. The wheels of administrations should be allowed to run smoothly and the Courts or Tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It has further been held that relative hardship cannot be looked into by the (Apex) Court and it is for the administration to consider the facts of a given case.

4. The respondents have stated that no case has been made out by the applicant of any malafide, or arbitrariness.

5. In the oral submission Shri A.K. Tiwari the learned counsel for the applicant has reiterated the pleadings. He

91

has stated that in the reply no public interest nor any kind of administrative exigency has been shown. The applicant has unnecessarily been put to frequent transfers and abeyance of such orders.

6. In rebuttal Shri S.A. Dharmadhikari the learned counsel for the respondents have stated that the applicant has not shown any malafides against any specific person. He stated that the applicant had made a representation in this regard and it was rejected after due consideration.

7. We have seen the pleadings and have heard the learned counsel on both the sides.

8. A number of decisions of the Apex court have been cited by the respondents. Two recent judgments in the case of State Bank of India versus Anjan Sanyal and others reported in 2001 SCC (L&S) 858 and in National Hydro Electrical Power Corporation versus Shri Bhagwan and Shiv Prakash reported in 2002 SCC (L&S) 21 are also on similar lines. The Tribunal ^{in judgment} cannot sit on the orders of transfers and examine whether any administrative exigency or public interest is involved or not unless statutory rules are violated or malafides is proved. In the present case the applicant is having All India transfer liability and we agree with the learned counsel for the respondents that no case of malafides against any person has been made out by the applicant. The ^{not} effect of various transfers is only that he has been transferred from Vehicle Factory, Jabalpur to Ordnance Factory, Varangaon and as reported he has joined at Varangaon.

9. We do not think that in this case any relief can be

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given by the Tribunal. Accordingly, the Original Application is dismissed. No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

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पूर्णसंवेदन रां श्री/मां..... तात्पुर, दि.....

दर्शन विभाग, नियन्त्रण विभाग, नियन्त्रण विभाग

- (1) राज्यपाल राम शर्मा, विधायक, विधायक
- (2) अधिकारी श्री/मां....., विधायक, विधायक
- (3) अधिकारी श्री/मां....., विधायक, विधायक
- (4) अधिकारी, विधायक, विधायक

सुनिश्चालन एवं विवरण विधायक

D K Tawar A/o
SA Sharmaneethi A/o

Om Prakash
मुख्य सचिव
JK-10.03

Proceeds
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11/10/03