

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR.

O.A.No.139/2005

April 5, 2005

CORAM : **HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN.**

Dulal Rewani son of Late Shri Ramu Rawani, aged about 43 years, L.D.C-cum-Cashier, Vocational Rehabilitation Centre for Handicapped, Jawahar Nagar, Jaipur at present R/o 2/1, R.B.T.I.Campus, Jhalana, Jaipur.

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Applicant

By : Mr.Prahalad Sharma, Advocate.

Versus

1. Union of India through, Dy. Director General, Ministry Labour and Employment, Directorate General of Employment & Training, Delhi.
2. Superintendent/Assistant Director @, Vocational Rehabilitation Centre for Handicapped, 4-SA-23, Surya Path, Jawahar Nagar, Jaipur.

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Respondents

By : None.

O R D E R(oral)

KULDIP SINGH,VC

The challenge of the applicant in this O. A. is to the order dated 23.3.2005 (Annexure A-1) by which he has been transferred from Vocational Rehabilitation Centre (VRC) Jaipur to Guwahati.

The relevant facts as alleged by the applicant are that he was initially appointed as Karshala Paricharak in the office of Respondent No.2, vide order dated 10.3.1987, at Jaipur. He completed his probation period successfully. He was assigned the duties of Vocational Instructor in conducting the vocational evaluation of persons with disabilities which he did perform to the entire satisfaction of his superiors. He was issued a certificate also to this effect on 17.5.2002 (Annexure A-4).

The applicant submits that at present he is working as L.D.C. Cum Cashier w.e.f. 2.1.2002 and there is no complaint against his



work and conduct. However, suddenly the applicant has been transferred by order dated 23.4.2005 (Annexure A-1) from VRC, Jaipur to VRC, Guwahati. He submits that the transfer of the applicant is to a distant place which is 2400 away from present place of posting. There is difference in language used at Guwahati. He is having two children ^{who are} ~~and~~ studying in Jaipur City and education session is also going on and the applicant is low paid employee and he is not in a position to perform his duties at Guwahati. Shri P.K.Charian, the present immediate officer of applicant is having malafide intention towards the applicant as he did not work as per illegal instructions of Shri P.K.Charian, therefore, with malafide intentions he recommended the transfer of the applicant. There is no complaint against his work and conduct. He is having outstanding service record. The post on which applicant is posted is Group-C which is not transferable.

I have heard learned counsel for the applicant at length and gone through the pleadings of the O.A.

I find that applicant has not been able to pin point any illegality in his transfer to Guwahati. Undisputedly, it is a chain transfer. Shri D.K.Gupta, RO has been transferred from Delhi to Jaipur and the applicant has been transferred from Jaipur to Guwahati. In view of these facts, the argument put forth by the applicant that since he is holding a Group-C post and is not transferable appears to be not based on facts. In any case, learned counsel for the applicant was asked to produce any rule or instruction which prohibits transfer of a Group-C employee like applicant, but he was unable to bring to the notice of this Bench any material, whatsoever, in support of his plea that he is working on a non-transferable post. In so far as education session of the children of the applicant is concerned, that has just started and it is not in session, as alleged by him. In so far as language problem is concerned, the Government is running Kendriya Vidyalayas all over


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country and applicant can take advantage of such facilities for education of his children. In any case this is not a ground, much less ground with legal provision to challenge a transfer order. The distance of the place is also irrelevant as applicant is working on a transferable post and is liable to be transferred to any where in India. The applicant has tried to level allegations against one Shri P.K.Charian who is neither a party before us in this case nor any evidence has been lead in the O.A to prove that it was Shri P.K.Charian who managed or recommended the transfer of the applicant. Thus, there is no occasion to accept the ground of malafide on the part of Shri P.K.Charian.

Hon'ble Supreme Court of India in the case of Abani Kanta Roy Vs. State of Orissa (1996) 32 ATC, Page 10, has held that transfer which is an incident of service is not to be interfered with the Courts or Tribunals unless same is shown to be arbitrary or vitiated by malafide or infraction of professed norms of principles of governing transfer. In the cases of State of M.P. Vs. S.S.kaurav, 1995 SCC (L&S), Page 666; State of Rajasthan Vs. Prakash Solanki, 2003 (7), SCC, 409; V.Jagannadha Rao Vs. State of A.P., 2001 (10) SCC, 414 & State Bank of India Vs. Anjan Sanyal, 2001 (5) SCC, 514, it has been held that unless the transfer is vitiated by malafide; arbitrariness or is enforced as a punishment, the same cannot be interfered with. I do not find that the transfer of the applicant is on account of malafide or arbitrariness on the part of the respondents nor there is any violation of statutory rules.

In the result I do not find this O.A to be a triable case, thus, it is dismissed in limine.


(KULDIP SINGH)
VICE CHAIRMAN

April 5, 2005.

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