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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

01.09.2011

MA No. 239/2011 (in OA No. 244/2011)

Mr. Anand Sharma, counsel for applicant.
Mr. Harish Maan, counsel for respondents.

Heard learned counsels for the respective parties on the Misc. Application for early hearing of the O.A.

Reloinder
filed on
21/09/11

Since the matter relates to the transfer of the applicant, the M.A. for early hearing of the O.A. stands allowed, and the date of the O.A. is pre-poned to 13.09.2009. Accordingly, the M.A. stands disposed of. Put up the O.A. No. 244/2001 for hearing on 13.09.2011.

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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13/09/2011
OA No. 244/2011

Mr. Anand Sharma, counsel for applicant
Mr. Harish Maan, counsel for respondents

Heard.
The O.A. is disposed of by a
separate order on the separate sheets
for the reasons recorded therein.

13.09.2011
K. S. Rathore
[Justice K. S. Rathore]
Member (J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 244/2011

DATE OF ORDER: 13.09.2011

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER

Mukesh Sharma S/o Late Shri Prahlad Rai Sharma, aged about 34 years, R/o Jamna Dairy, near Shiv Mandir Ke Pass, Ajmer Road, Sodala, Jaipur (Rajasthan). At present working at Station Work Shop, EME, Jaipur.

...Applicant

Mr. Anand Sharma, counsel for applicant.

VERSUS

1. Union of India through Secretary, Ministry of Defence, New Delhi – 110011.
2. Directorate General of EME, Master General Ordnance Branch, Integrated HQ of MoD (Army), New Delhi – 110011.
3. MGEME, HQ Southern Western Command (EME Br), Jaipur PIN 908546, C/o 56 APO.
4. Commanding Officer, Station Workshop EME, Jaipur, PIN 901252, C/o 56 APO.
5. Colonel Ravinder Singh, Commanding Officer, Station Workshop EME, Jaipur, PIN 901252, C/o 56 APO.

...Respondents

Mr. Harish Maan, counsel for respondents.

ORDER (ORAL)

The present Original Application is directed against the order dated 15.11.2010 (Annex. A/1) whereby Board of Officers has decided to assign the duties to the applicant along with others; and the applicant was directed to report to the Workshop Officer on 16.11.2010 for performing duties in the Workshop Office.

2. The applicant challenges the aforesaid order on the ground of malafide and malice on the part of the respondent no. 5, Colonel Ravinder Singh, Commanding Officer as the applicant



has filed complaint against the respondent no. 5, therefore, being annoyed of him, changed his duties; rather he alleged that he has been transferred to one Workshop to another Workshop, which the respondents are not competent as evident by the letter dated 22nd December, 2010 filed along with the reply to rejoinder on behalf of the respondents, whereby the respondent no. 5 has requested that the guidelines be kindly indited in view of the representation filed by the applicant.

3. The learned counsel appearing for the applicant submits that the respondent no. 5 was not sure that he is entitled to assign the duty in the different Workshop, and, therefore, asked the guidelines vide letter dated 22nd December, 2010 on the following points received from one of the Civilian LDCs: -

- (i). There are two wings namely Civilian Wing and Military Wing in the Station Workshop.
- (ii). The civilian clerks are meant for looking after matters relating to the civilian employees only.
- (iii). The civilian clerks will deal with the work related to civilians only
- (iv). The orders for performing duties in 'Workshop Office' instead of 'Civilian Establishment' needs to be approved by the Government of India, Ministry of Defence.

It is also alleged by the learned counsel for the applicant that the said clarifications have been sought by the



respondent no. 5 after transferring the applicant from one Workshop to another Workshop vide order dated 15th November, 2010 (Annex. A/1).

4. The respondents has raised preliminary objection regarding maintainability of the present Original Application as the applicant has challenged the order dated 15th November, 2010 (Annexure A/1) whereby the 'convening order' was passed directing the applicant to report to the Workshop Officer with effect from 16th November, 2010 for performing duties in Workshop Office, and the applicant prayed for allowing him to continue on the post of LDC in Civilian Establishment, Station Workshop, EME, Jaipur. It is submitted by the respondents that the order dated 15th November, 2010 has been passed purely looking into the administrative exigency and by this order the service conditions, pay and other benefits attached to the post of LDC held by the applicant are not in any manner affected, and as such the challenge to the order dated 15th November, 2010 is wholly misconceived. The respondents have placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of **Rajendra Singh vs. State of U.P.** reported in (2009) 15 SCC 178.

5. The respondents further submitted that as per the service condition, the applicant's service is governed under All India Liability Rules vide SRO 92/57 (Annex. R/1) and he can be posted to any place in India. The services of the applicant



were further required to be governed by Army Instructions 182/51, (Annex. R/2), as amended from time to time.

6. Having heard the rival submissions made on behalf of the respective parties and upon careful perusal of the order impugned passed by the respondents, as alleged by the applicant that he has been transferred on account of malafide and malice, is per se appeared to be false as the respondents have only assigned the duty to the applicant from one Workshop to another Workshop at Jaipur itself and is working under the command of respondent no. 5 Colonel Ravinder Singh. Mere assertion of the malafide allegations does not survive as the applicant is not able to prove that the order of assigning the duty is a different job. He is also not able to prove that the order impugned is passed on the ground of mala fide, and not on the ground of administrative exigency. Therefore, in my considered view the order impugned requires no interference by this Tribunal.

7. Consequently, the Original Application being bereft of merit deserves to be dismissed, and the same is hereby dismissed with no order as to costs.


(JUSTICE K.S. RATHORE)
MEMBER (J)