

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 1224/2017

Reserved on: 17.04.2017
Pronounced on: 19.04.2017

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

Shri Naresh Gond,
S/o Shri Sirpat Gond,
H.No. 2/20, Double Storey,
Mandir Marg,
New Delhi-110001 ... Applicant

(Through Ms. Ruchika Mittal, Advocate)

Versus

- 1 Union of India through
The Secretary
Ministry of Home Affairs,
North Block,
New Delhi-110001
2. The Director
Intelligence Bureau
Ministry of Home Affairs,
North Block, Central Secretariat
New Delhi-110001
3. Shri Hari Shankar Vijay
SO/S-IV
Branch S-IV, IB Headquarter,
35, S.P. Marg,
New Delhi-21
4. Shri S.S. Rawat,
JDD/S-1,
Branch S-IV, IB Headquarters,
35, S.P. Marg,
New Delhi

... Respondents

ORDER

Mr. P.K. Basu, Member (A)

The applicant joined the Intelligence Bureau as Security Assistant on 17.06.1994. He was posted at Porbandar till 15.10.1998. Thereafter, he was posted at Ahmedabad till 3.07.2003. Between 2003 till 15.05.2009 i.e. for a period of almost six years, the applicant was posted in Uttar Pradesh at Basti and Ballia (close to Basti). The applicant belongs to Uttar Pradesh. Between 1.06.2009 to 15.08.2012, he was posted at Anuppur, Madhya Pradesh. On 29.10.2012, the applicant was transferred to Delhi. Vide impugned order dated 22.03.2017, the applicant along with 25 others have been transferred, he being transferred to Vijayawada. In that same transfer order, there are officials who have been transferred to Leh, Kohima, Shillong, Itanagar, Siliguri, Agartala, Guwahati and Gangtok etc. The applicant has prayed for the following reliefs:

"(a) Quash and set aside the Order no.4/C-4/2017(3)-1591 dated 22.03.2017 being malafide, arbitrary, illegal, discriminatory against the policy laid down in this regard and violative of provisions of Article 14 and 16 of the Constitution and the principles of natural justice."

2. It would be seen from the facts narrated above that the applicant remained in Gujarat (Porbandar and Ahmedabad) till 2003. Thereafter, the applicant was kept posted at U.P. from 2003 to 2009. He was moved to Madhya Pradesh for three years and again brought back to Delhi in 2012. After five years in

Delhi, he has been moved to Vijayawada, which cannot be considered a difficult posting. In fact, several persons have been sent to North East and Leh etc. vide that same transfer order.

3. It is stated that while being posted at Delhi, he applied for casual leave for two days along with station leave permission to visit District Basti, Uttar Pradesh to solve some urgent household problems. The casual leave application was approved and sanctioned. The applicant while being on leave fell ill and could not join duty and, therefore, he applied for 10 days commuted leave as the Government hospital doctor had advised him 10 days rest. It is stated that he had informed in the office at land line phone about his health condition and that as per policy and practice such information received on phone is valid and accepted. According to him he was granted extraordinary leave and his salary deducted though he should have been granted casual/ commuted leave. The applicant has made out a case that respondents No. 3 and 4, namely, Shri Hari Shankar Vijay, SO/S-IV and Shri S.S.Rawat, JDD/S-1 have been harassing and victimizing him and threatened to transfer him to Leh/North East area perhaps because he protested against EOL and salary deducted.

4. It is further stated that since the applicant belongs to Scheduled Tribe, both the aforementioned officers were troubling and harassing him and the transfer order is being used as a tool to victimize him.

5. We have gone through the OA. It cannot be said from the postings of the applicant that the respondents have acted in any malafide manner. In the last 17 years of his service, the only difficult posting, according to the applicant, was in Madhya Pradesh in a Naxalite area for three years. Otherwise, he had postings in decent places. Strangely enough, he has spent four years near his house between 2003 to 2009. After being in Delhi from October 2012, he has been transferred to Vijayawada in March 2017 i.e. after about five years. Vijayawada is not an out of the way place. Neither can it be said that the respondents have removed him from Delhi after only a short period of time. The allegation of malafide by respondents no.3 and 4 is only a bald statement. In fact, the applicant states that they had threatened to transfer him to Leh/ North East but he has actually been transferred to Vijayawada. So it cannot be defined as a malafide transfer by any stretch of imagination.

6. Apart from the fact there is no ground to interfere on merit, we also note that the Hon'ble Supreme Court in **S.C. Saxena Vs. Union of India & Ors.**, 2006 SCC (L&S) 1890 has settled the law on transfer as follows:

"6. We have perused the record with the help of the learned counsel and heard the learned counsel very patiently. We find that no case for our interference whatsoever has been made out. In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not

reporting at the place of posting and indulging in litigation needs to be curbed."

7. In the facts and circumstances of the case and the law settled by the Hon'ble Supreme Court in S.C. Saxena (supra), the OA is dismissed in limine. No costs.

(P.K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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