

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2896 OF 2015

New Delhi, this the 22nd day of December, 2015

CORAM:

HON^{OR}BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Jaibir,

Aged about 46 years,

Stenographer Grade II, Group -C

R/o 781/5, Shankar Garden,

Gali No.1, Line Paar,

Bahadurgarh 124507

Haryana

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Applicant

(By Advocate: Mr.Ashish Nischal)

Vs.

1. Union of India,
Through the Secretary,
Department of Official Language,
Ministry of Home Affairs,
2nd Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi 110003

2. The Director,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor,
Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi 110003

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Respondents

(By Advocate: Mr.Vijay Kumar Sharma)

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ORDER

The applicant initially joined the Central Translation Bureau, New Delhi, on 10.11.1993, as a Stenographer Grade III. In due course of time, he was promoted to the post of Stenographer Grade II. While working as Stenographer Grade II in the Central Translation Bureau, New Delhi, office order dated 10.7.2015 (Annexure A/1) was issued by the respondents transferring him from the Central Translation Bureau, New Delhi, to the Training Centre, Central Translation Bureau, Kolkata. Being aggrieved by the office order dated 10.7.2015, *ibid*, the applicant made a representation dated 24.7.2015 (Annexure A/8) requesting the Secretary, Department of Official Language, Ministry of Home Affairs, New Delhi, to quash the office order dated 10.7.2015 (Annexure A/1). After the representation dated 24.7.2015 (Annexure A/8) was made by the applicant, the respondents issued office order dated 31.7.2015 (Annexure A/2) relieving him of his duties in the office of the Central Translation Bureau, New Delhi, with effect from 7.8.2015, and also directing him to report to the Training Centre, Central Translation Bureau, 67B, Baliganj, Circular Road, Kolkata, immediately. Hence, the present Original Application has been filed by the applicant challenging the aforesaid two orders dated 10.7.2015 and 31.7.2015, *ibid*.

2. It is contended by the applicant that there was no vacancy in the post of Stenographer Grade II available at the Training Centre, Central Translation Bureau, Kolkata. As per the Transfer Policy (Annexure A/5), his

performances having been rated as 'Excellent' in all his ACRs/APARs, he ought to have been transferred to a place of his choice, for which the respondents ought to have called for his option. The respondents have transferred him to Kolkata without calling for his option. It is also contended by the applicant that the order of his transfer has not been issued by the respondents on the recommendation of the Committee of Departmental Heads (Central Hindi Training Institute/Hindi Teaching Scheme, Central Translation Bureau and Regional Implementation Offices), which is stipulated in the Transfer Policy dated 15.2.2012 (Annexure A/5). It is also contended by the applicant that one Ms. Neelam Kapila, Stenographer Grade II, who has been working in Delhi since 1989 and has, thus, continued in Delhi for longer period than him, has been left out, while he has been picked up and transferred from Delhi. It is asserted by the applicant that his three children aged about 16 years, 11 years and 8 years, respectively, are studying in private schools. His elder son is in Class XI and is going to appear for XII Board Examination. His mother, who is aged about 81 years, is blind. She is also suffering from TB. The respondents have failed to consider his representation dated 29.7.2015 (Annexure A/8) and appreciate the problems that he would be facing in the event of his moving out of Delhi on transfer.

3. In their counter reply, the respondents have stated that the applicant bears all-India transfer liability, and that his transfer has been made due to exigencies of work, purely in public interest. There are four

offices of Central Translation Bureau situated in New Delhi, Mumbai, Bangalore and Kolkata. None of the employees working under the Central Translation Bureau is transferred to any hard station. As the transfer of the applicant to Kolkata was made against a clear vacancy, and there was no vacancy available at any other station, the question of calling for his choice did not arise. The posts of Stenographers Grade II at various stations constitute a single cadre. The applicant's transfer to Kolkata became necessary on account of vacancy arising there due to technical resignation of one Shri Dheeraj Lal, Stenographer Grade II. The promotion of the applicant was made against the vacancy arising due to technical resignation of the said Shri Dheeraj Lal, who was working as Stenographer Grade II in the Central Translation Bureau, Training Centre, Kolkata. The applicant's transfer was ordered on the recommendation of the Transfer Committee constituted in accordance with the Transfer Policy. As per the minutes of the DPC held on 22.11.2013, the applicant and one Smt. Aradhana Bhatnagar were promoted to the post of Stenographer Grade II. Due to reversion of one Shri Madan Singh, Office Superintendent, to the post of Stenographer Grade II, Smt. Aradhana Bhatnagar was reverted to the post of Stenographer Grade III. Smt. Neelam Kapila was promoted to the post of Stenographer Grade II on 4.11.2004. The vacancy for her promotion arose after promotion of Shri Bhoodev Sharma, Stenographer Grade II to the post of Office Superintendent in the Central Translation Bureau, Delhi. The applicant was

well aware that his promotion was against the vacancy in Kolkata Centre as 02 posts at New Delhi were already occupied.

4. In his rejoinder reply, the applicant has reiterated more or less the same averments and contentions as in his O.A.

5. I have perused the records, and have heard Shri Ashish Nischal, the learned counsel appearing for the applicant, and Shri Vijay Kumar Sharma, the learned counsel appearing for the respondents.

6. Reiterating the contentions as raised in the O.A., Shri Ashish Nischal, the learned counsel appearing for the applicant, submitted that the order of transfer of the applicant, having been issued in violation of the Transfer Policy, is liable to be quashed.

7. *Per contra*, Shri Vijay Kumar Sharma, the learned counsel appearing for the applicant, submitted that the contentions raised by the applicant are untenable. Shri Vijay Kumar Sharma also submitted that on the facts and in the circumstances of the case, there is no scope for interference with the impugned order of transfer of the applicant. In support of his submissions, Shri Vijay Kumar Sharma placed reliance on the following decisions:

7.1 **Gujarat Electricity Board and another v. Atmaram Sungomal Poshani**, (1989) 2 SCC 602, where it has been held that transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No Government servant has legal right for being posted at any particular place. Transfer from one

place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration.

7.2 **Union of India and others v. H.N.Kirtania**, (1989) 3 SCC 445, where it has been held that transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of mala fides. There was no good ground for interfering with the transfer.

7.3 **State of U.P. and another v. Siya Ram and another**, (2004) 7 SCC 405, where it has been held that no Government servant or employee of a public undertaking has any legal right to be posted for ever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration . Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or tribunals normally cannot interfere with such orders as a matter of routine, as though they were appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned.

7.4 **Rajendra Singh and others v. State of Uttar Pradesh and others**, (2009) 15 SCC 178, where it has been held that a Government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the Government servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. The Courts are always reluctant in interfering with the transfer of an employee unless such transfer is vitiated by violation of some statutory provisions or suffers from mala fides.

7.5 **State of Haryana and others v. Kashmir Singh and another**, (2010) 13 SCC 306, where it has been held that transfer ordinarily is an incidence of service, and the courts should be very reluctant to interfere in transfer orders as long as they are not clearly illegal. In particular, we are of the opinion that transfer and postings of policemen must be left in the discretion of the State authorities concerned which are in the best position to assess the necessities of the administrative requirements of the situation. The administrative authorities concerned may be of the opinion that more policemen are required in any particular district and/or another range than in another, depending upon their assessment of the law and order situation

and/or other considerations. These are purely administrative matters, and it is well settled that courts must not ordinarily interfere in administrative matters and should maintain judicial restraint.

8. The applicant has not produced before this Tribunal any material to show that there was no vacancy in the post of Stenographer Grade II available at the Training Centre, Central Translation Bureau, Kolkata. The applicant has also not produced before this Tribunal any material to show that there was vacancy available at any of the stations, other than Kolkata, where he could be transferred. Therefore, the question of asking him to indicate his choice did not arise. In the absence of any material being placed by the applicant to show that the order of his transfer was not issued on the basis of recommendation of the Transfer Committee, this Tribunal is not inclined to brush aside the assertion made by the respondents that the applicant's transfer was ordered on the basis of the recommendation of the said Committee. As regards the continuance of Ms. Neelam Kapila, Stenographer II at Delhi, it is found that the respondents have allowed Ms. Kapila to continue at Delhi and have transferred the applicant to Kolkata for cogent reasons. In the above view of the matter, I do not find that the order of transfer of the applicant has been issued by the respondents in violation of the Transfer Policy. As regards the applicant's plea about his mother's health condition, and education of his children, it cannot be said that medical and educational facilities, as available in the NCR of Delhi, are

not available in Kolkata. Therefore, the applicant can take his school going children and his mother to Kolkata and look after them.

9. After having given my anxious consideration to the facts and circumstances of the case, and the rival contentions, in the light of the decisions of the Honøble Supreme Court, cited supra, I do not find any merit in the O.A. Accordingly, the O.A., being devoid of merit, is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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