

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3759/2014

Reserved on : 06.09.2017

Pronounced on : 12.09.2017

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)**

Asha Sharma,
Aged 46 years, Group 'C',
W/o Shri Sunil Kumar Sharma,
R/o 6B, MIG Flats, Rampura,
Delhi-35.

.. Applicant

(By Advocate : Shri U. Srivastava)

Versus

Union of India through

1. The Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. The Director General,
All India Radio,
Akashvani Bhawan,
New Delhi.
3. The Additional Director General (NZ),
Prasar Bharti, Akashvani & Doordarshan,
Jamnagar House, Shahjahan Road,
New Delhi.

... Respondents

(By Advocate : Shri Vikrant Yadav)

ORDER

By Mr. V. Ajay Kumar, Member (J)

The applicant, a Senior Engineering Assistant under the respondents, filed the O.A. questioning the Annexure A-1 Office

Order No.39/2014, dated 10.10.2014, whereunder she was transferred from Delhi to Rohtak along with so many others.

2. Briefly stated, the applicant was appointed as Engineering Assistant on 10.05.1991 and was promoted as a Senior Engineering Assistant on 11.02.2007 and was posted at Delhi for the first time in the year 1998. Since then, i.e. for the last about 19 years, she has been working at Delhi, though was transferred from one place to another place within Delhi, intermittently.

3. By virtue of the interim orders dated 21.10.2014 of this Tribunal in the instant O.A., the applicant is being continued at Delhi till date even after passing of the impugned transfer order dated 10.10.2014, i.e. for the last about three years.

4. Heard Shri U. Srivastava for the applicant and Shri Vikrant Yadav for the respondents, and perused the pleadings on record.

5. Shri U. Srivastava, learned counsel appearing for the applicant would mainly submit that as the applicant was sexually harassed by one Shri Ram Gopal, Assistant Engineer, at her work place, she submitted a complaint on 27.07.2012 to the Chairman, National Women Cell and because of the said complaint only, the respondents to protect the said Shri Ram Gopal transferred the

applicant to Rohtak under the impugned proceedings. He further submits that the applicant was frequently transferred number of times even before the impugned transfer order. The respondents retained certain juniors to the applicant but transferred the applicant. Accordingly, the learned counsel submits that the impugned transfer order being issued with *mala fide* intention and only to harass the applicant is liable to be quashed.

7. On the other hand, Shri Vikrant Yadav, learned counsel appearing for the respondents would submit that admittedly, since the applicant has been working at Delhi for the last about 19 years continuously, cannot have any right to be continued at Delhi. The alleged frequent transfers cannot be treated as a transfer at all as the same were made within Delhi only and without causing any dislocation to the applicant for all these 19 years. He also denied the contention of the applicant that persons having more standing at Delhi were not transferred but the applicant was targeted is not substantiated by the applicant.

8. The learned counsel for the respondents further submits that the applicant alleged to have submitted a complaint to the Chairman, National Women Cell on 27.07.2012, whereas the impugned transfer order is dated 10.10.2014 and, hence, cannot be stated to be the basis for her transfer. The learned counsel further

submits that Shri Ram Gopal, against whom the applicant said to have submitted a complaint, retired from service in the year 2012 itself and, hence, the contention of the applicant has no force. He further submits that the impugned order is a general transfer order whereunder number of persons along with the applicant were transferred, in public interest, to different places, in terms of the Transfer Policy of the respondents and, hence, the same cannot be stated to be passed with any *mala fide* intention against the applicant.

9. In **Rajendra Singh & Others vs. State of UP & Others**, (2009)

15 SCC 178, the Hon'ble Apex Court held as under:

"6. 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 [see **State of U.P. v. Gobardhan Lal**; (2004) 11 SCC 402].

7. 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. In the case of **Shilpi Bose (Mrs.) & Ors. v. State of Bihar & Ors.** AIR 1991 SC 532, this Court held :

"4. In our opinion, the courts should not

interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders."

8. In **N.K. Singh v. Union of India & Ors.** (1994) 6 SCC 1998, this Court reiterated that the scope of judicial review in matters of transfer of a Government Servant to an equivalent post without adverse consequence on the service or career prospects is very limited being confined only to the grounds of mala fides or violation of any specific provision."

10. We find force in the submissions made by the learned counsel for the respondents that the said Shri Ram Gopal against whom the applicant submitted a complaint was retired from service in the year 2012 itself and that the applicant having been continuously working at Delhi somehow trying to continue further at Delhi only.

The applicant also failed to show any justifiable ground in questioning the impugned transfer order.

11. In the circumstances and for the aforesaid reasons and in view of the settled legal position, the O.A. is dismissed being devoid of any merit. The interim orders dated 21.10.2014 are vacated. No order as to costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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