

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.3319 OF 2014
New Delhi, this the 23rd day of May, 2017

CORAM:

HON~~BLE~~ SHRI RAJ VIR SHARMA, JUDICIAL MEMBER
AND
HON~~BLE~~ MRS. PRAVEEN MAHAJAN, ADMINISTRATIVE MEMMBER
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Divya Saxena,
Aged 48 years,
d/o late Shri C.K.Saxena,
Post Graduate Teacher,
Jawahar Navodaya Vidyalaya,
Jaffarpur Kalan,
Quarter No.9,
New Delhi 110073

í í .. Applicant

(By Advocate: Shri Gourav Saraswat for Shri Y.S.Chauhan)

Vs.

1. Union of India,
Through Secretary, Ministry of Human Resource & Development,
Shastri Bhawan,
New Dlehi 110001
2. Navodaya Vidyalaya Samiti,
Through its Commissioner,
B-15, Sector 62,
Noida, Uttar Pradesh
3. Deputy Commissioner,
Navodaya Vidyalaya Samiti,
R.O.Jajpur, 18,Sangram Colony,
Mahaveer Marg, C-Scheme,
Jaipur 302001
4. Jawahar Navodaya Vidyalaya,

Through its Principal,
Jaffarpur Kalan,
New Delhi 110073

5. S.Ram,
Assistant Commissioner,
Jaiur, 18, Sangram Colony,
Mahaveer Marg, C-Scheme,
Jaipur 302001
6. Kailash Chand,
Principal, Jawahar Navodaya Vidyalaya,
Jaffarpur Kalan, New Delhi 110073 Respondents

(By Advocate: Dr.Puran Chand for Shri S.Rajjappa)

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ORDER

Per Raj Vir Sharma, Member(J):

The applicant is serving as a Post Graduate Teacher (Mathematics) (PGT-Maths) under the respondent-Navodaya Vidyalaya Samiti(NVS). She has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing of the office order dated 4.8.2014 issued by the respondent-NVS transferring her from Jawahar Navodaya Vidyalaya, Jaffarpur Kalan, Delhi-II, to Jawahar Navodaya Vidyalaya, Gajner District, Bikaner (Rajasthan) with immediate effect on administrative ground.

2. Resisting the OA, the respondents have filed a counter reply. The applicant has also filed a rejoinder reply.

3. We have perused the records, and have heard Shri Gourav Saraswat for Shri Y.S.Chauhan, the learned counsel appearing for the applicant, and Dr.Puran Chand for Shri S.Rajappa, the learned counsel appearing for the respondents.

4. It was submitted by the learned counsel for the applicant that the impugned order of transfer is punitive in nature and has been issued by the respondents in violation of the Transfer Policy, and, therefore, the same is liable to be quashed.

5. On the other hand, the learned counsel appearing for the respondents submitted that the impugned transfer order is in accordance with Clause 6(c) of the transfer policy circulated vide notification dated 4.4.2012, which stipulates that the respondent-NVS shall displace an employee whose continuance at particular station is not conducive from administrative point of view. In compliance of the order dated 27.8.2014 passed by the Tribunal in OA No. 2755 of 2014, the Commissioner, NVS, after duly considering the grounds urged by the applicant in her OA, has passed the speaking order dated 5.9.2014 rejecting the applicant's representation against the impugned order of transfer. The Commissioner, NVS, has clearly found that continuance of the applicant in JNV, Jaffarpur Kalan, was not conducive for the reasons indicated in the speaking order dated 5.9.2014. It was also submitted by the learned counsel appearing for the respondents that the applicant has already joined and is now working at the place of transfer. In the above view of the matter, the learned counsel appearing for the

respondents submitted that there is no scope for the Tribunal to interfere with the impugned order of transfer, and the O.A. is liable to be dismissed.

5. Brief facts of the case giving rise to the present O.A. are as follows:

(i) Challenging the office order dated 4.8.2014(ibid), the applicant had earlier approached this Tribunal in OA No.2755 of 2014 which had been disposed of by the Tribunal, vide its order dated 27.8.2014, which is reproduced below:

ØHeard learned counsel for the parties.

At the time of hearing, learned counsel for the applicant agreed to suggestion given by the respondents that this OA should be treated as a representation and decided by the respondents within a period of two weeks. Considering the request of learned counsel for the applicant, it would be proper to direct the respondent no.2 to treat the averments of this OA as representation of the application and decide the same within a period of two weeks. Till then, applicant shall remain posted at JNV, Jaffarpur Kalan, Delhi. Ordered accordingly. If the applicant is still aggrieved by the order passed on his (*sic*) representation, he (*sic*) shall have liberty to approach the appropriate forum, if so advised.

OA stands disposed of.

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(ii) In compliance with the Tribunal's order dated 27.8.2014(ibid), the respondent-NVS considered the applicant's representation, but rejected the same, vide order dated 5.9.2014, which is reproduced below:

ØWHEREAS, Smt. Divya Saxena, Post Graduate Teacher (Maths) of Jawahar Navodaya Vidyalaya, Jaffarpur Kalan, Delhi, was transferred to Jawahar Navodaya Vidyalaya, Gajner, District Bikaner (Rajasthan) on administrative grounds vide Office order No.79-2(C)/Admn. Transfer/NVS-JR/P&E/2013/5541-5548 dated 4th August, 2014, of NVS, RC, Jaipur with due permission from NVS (Hqrs).

AND WHEREAS, being aggrieved with the aforesaid transfer order, Smt. Divya Saxena filed an OA No.2755/2014 before the Hon'ble CAT, Principal Bench, New Delhi, which was disposed of by the Hon'ble CAT vide its order dated 27th August 2014 with the direction to the Commissioner, NVS to treat the averments of this OA as representation of the applicant and decide the same within a period of two weeks.

AND WHEREAS, the undersigned in compliance of the aforesaid order of Hon'ble CAT perused the contents of the OA No.2755/2014 and also looked into the recommendations of the Regional Office, Jaipur (Rajasthan). Smt. Divya Saxena has raised the following points in the said OA:-

- 1) That she has been transferred in violation of the Transfer Policy as a measure of penalty with discriminatory attitude.
- 2) That she has been transferred before completion of the prescribed tenure of 10 years in violation of the provisions of Transfer Policy.
- 3) That she was the witness in the alleged incident of molestation of daughter one colleague for which the Principal issued Memo dated 15.3.2013. She replied to the said Memo on 18.03.2013 and also the attention of the Vidyalaya administration upon the frequent abuse of female staff and students.
- 4) That she highlighted on 27.4.2013 about the error committed in uploading the marks of the students in CBSE portal and requested for its rectification but the Principal advised not to do the same. She again on 2.5.2013 represented to the Principal for doing the same and also protested for not correcting the same. She pointed out that the marks of the daughter of the Principal were wrongly enhanced by the Principal while uploading the CBSE result and, therefore, Principal threatened her of dire consequences if she objects to the functioning of the Principal.
- 5) That she represented on 14.5.2013 against the continuous harassment and threat of transfer. The Principal informed her on 15.5.2013 to make her grievance before the Dy. Commissioner and also defended inflated posting of marks in CBSE portal in respect of the daughter of the Principal. She replied on 20.5.2013 to the Principal's letter stating that she should not be alleged for the inflated posting of marks in CBSE portal.
- 6) She lodged a complaint before the police authority as she was harassed by the respondent No.5, i.e., Shri S.Ram, Assistant Commissioner, NVS, Regional Office, Jaipur.

- 7) Sensing conspiracy against her to transfer out of Delhi she asked information about secret inquiry from the respondent No.5, i.e., Shri S.Ram, Asstt. Commissioner, NVS, Regional Office, Jaipur.
- 8) She filed an RTI application dated 29.7.2013 seeking status of her grievances but on 27.8.2013 she got the reply. She further points out that from 24.9.2013 to 26.6.2014 she moved various RTI applications but complete reply was not given to her. She came to know that respondents are arbitrarily trying to transfer her to a far away place.
- 9) On 20.12.2013 the Principal of the Vidyalaya tried to shift the burden of wrongly enhancing the marks of his daughter on her and accordingly wrote a letter to the Dy.Commissioner, NVS, RO, Jaipur.
- 10) She wrote letter on 24.2.2014 and on 9.4.2014 to take action against the partial behavior of the Principal towards her.
- 11) On 12.4.2014 she informed the Principal about missing of mathematics laboratory register but the Principal advised the applicant on 17.4.2014 not to do the same through correspondence. The Principal of the Vidyalaya being annoyed with the reply of her passed on office order and advised her not to make record by putting things in writing. A charge sheet was issued to her on 24.4.2014. She submitted her detailed defence statement informed the higher authorities about bias attitude of the Principal on 16.5.2014.
- 12) That on 28.5.2014 she made detailed complaint against the Principal for continuing offending behavior and ill will towards her.
- 13) That during the period from 28.5.2014 to 22.7.2014 she sought certain documents under RTI Act which would highlight corruption and embezzlement of funds by the Principal. Hence, Principal tried every tricks to deny the information by asking her to deposit Rs.10,000/- . The documents supplied to her through RTI were not more than 200 pages for which Rs.10,000/- was collected from her. Thus, Principal continued his ill will towards her in a revengeful manner.
- 14) The Principal being annoyed with her supplied false information to the higher authority and got her transferred on administrative grounds. The order of the transfer is in violation of the Transfer Policy. Since inquiry against her is still pending issuance of transfer

order amounts to penalizing her without any proof of guilt.

AND WHEREAS, the undersigned perused the records and observed the following facts against each of the points raised by Smt.Divya Saxena:-

- 1) That her administrative transfer in the instant case is completely in accordance with the provisions of Transfer Policy. It is neither punitive nor discriminatory in nature.
- 2) Her contention that she has been transferred before completion of the requisite tenure of 10 years in violation of the Transfer Policy is nothing but misleading. As per the provisions of Transfer Policy no such tenure has been prescribed for effecting administrative transfer. It is categorically envisaged in the Transfer Policy, under Para 6(C), that an employee whose continuance at a particular station is not conducive from administrative point of view shall be transferred on administrative grounds.
- 3) Smt. Divya Saxena was one of the signatories to the representation dated 9.3.2013 of Smt. Neelam Malik regarding alleged molestation of her 5 years daughter. The issue was settled in the Police Station as the parents of the student had apologized for the same. Subsequently the said student was sent back to his home and not allowed to be kept in the campus of the Vidyalaya. There was no need for Smt. Neelam Malik to write a complaint on 9.3.2013 on the same issue to the Principal in which she obtained signature of 7 teachers including Smt. Divya Saxena. It is nothing but formation of a group in the campus and highlighting the issues which had already been settled. Thus, the Principal of the Vidyalaya had issued a Memo to 4 (four) teachers including Divya Saxena on 15.3.2013 advising them not to make joint representation which is not permissible under the rules. The rest of the teachers accepted their mistake in becoming party to the said representation dated 9.3.2013 of Smt. Malik. Hence, no memo was issued to them by Principal of the Vidyalaya. Smt. Divya Saxena replied to the Principal in respect to the said Memo dated 15.3.2013 and narrated some other issues in the campus related to student and staff. The allegation of abuse of female staff and students are found unsubstantiated.
- 4) Uploading of inflated marks in respect of Master Hritik Sharma Class X who is son of Smt. Urmila Sharma, PGT (Hindi) was brought to the notice of Smt. Divya Saxena during the inquiry which was conducted on 25 and

26.4.2013 by a Committee of two officers, Shri S.Ram, Assistant Commissioner and Smt. Suman Negi, Principal, JNV, Gurgaon. Having come to know about the same Smt. Saxena wrote a letter to the Principal on 27.4.2013 and wanted to know what she should do for correcting the same. The Principal advised her that when the matter is under inquiry and records have been taken away by the Inquiry Officer, she should wait for the decision of the Inquiry Committee. Subsequently, the Regional Office, Jaipur had charged sheeted Smt. Divya Saxena for her lapses being Examination Incharge on the recommendation of Inquiry Committee consisting of Shri G.S.Siddhu, Assistant Commissioner and Smt. Shikha Singh, Principal, JNV, Sonipat which recommended in its report dated 26.7.2013 that disciplinary action should be initiated against Examination Incharge, Vice-Principal/Sr.Teacher and Principal of the Vidyalaya. The initiation of disciplinary proceedings against the Principal and Vice-Principal are under consideration. However, Smt. Saxena being the Examination Incharge had uploaded marks other than the actual marks (increased/decreased) in CBSE portal in the year 2010-11 of Class X in respect of all most all students in all the five subjects which includes the daughter of Principal. But she only complained about the inflated marks of the daughter of Principal. The record reveals that marks were wrongly reflected only in Science subject for the daughter of Principal out of 5 subjects that neither affected her final grading by CBSE in Class-X nor her eligibility for admission to Class XI (Science). Hence, the allegation that Principal threatened her of dire consequences is unsubstantiated.

5) Reporting by the Principal to the Regional Office against the lapses of Smt. Divya Saxena cannot be treated as harassment. Based on the report of the Principal, Regional Office had conducted inquiry from time to time and accordingly chargesheet had been issued to Smt. Divya Saxena for her lapses being the Examination Incharge. Hence the representations dated 14.5.2013 and 20.5.2013 need no further consideration.

6) When the lapses of Smt. Divya Saxena came to light during the inquiry conducted on 25.04.2013 and 26.04.2013 by Shri S.Ram, Asstt. Commissioner and Smt. Suman Negi, JNV, Gurgaon, she is found to have lodged a complaint against Shri S.Ram. And this shows

her revengeful activities against higher authority and to pressurize them.

7) No such documents were available wherein she had asked information about secret inquiry from the respondent No.5 i.e. Shri S.Ram, Asstt. Commissioner. In fact Shri S.Ram, AC and Smt. Suman Negi, Principal, JNV, Gurgaon had conducted inquiry on 25th and 26th April, 2013 in connection with administrative transfer of Smt. Divya Saxena. There was no secrecy involved in it.

8) Seeking information under RTI Act and not getting complete information thereof cannot be termed as an arbitrary act on the part of the respondents. Information as available on records is to be provided to the information seeker by the Public Information Officer(PIO). Recommendation of the Principal about administrative transfer of teachers to the Regional Office and Headquarters is a normal annual feature. There is nothing arbitrary in this matter. Administrative Transfer is done after conducting the due process as envisaged in the Transfer Policy.

9) The issue related to inflating the marks and uploading it in CBSE portal has already been inquired into twice by (i) Committee consisting of Shri G.S.Siddhu, Assistant Commissioner and Smt. Shikha Singh, Principal, JNV, Sonipat (ii) Committee consisting of Shri M.P.Singh, Principal, JNV,Nagpur (Rajasthan) and Smt. Shikha Singh, Principal, JNV, Sonipat. Based on the recommendation of the Committee, charge sheet has been issued to Smt. Divya Saxena and actions against others are in process. Regarding uploading of inflated marks in respect of daughter of Principal the details are narrated para-4.

10) As stated in para IX, action against others including Principal is under process.

11) Charge sheet was issued after conduct of a preliminary inquiry by the Regional Office. There is nothing arbitrary on the part of the Principal for issuance of charge sheet to Smt. Saxena. Reporting of missing registers to the Principal and the Principal's comment thereon vide Office Order dated 24.4.2014 do reveal the lackadaisical attitude of the teacher concerned about her legitimate duties.

12) From the series of events it transpires that she is habitual of complaining against the Principal for trivial issues.

13) The matter related to RTI application and supply of information thereon is entirely an issue comes within the purview of RTI Act. As per record the Principal, being

the PIO, has already supplied 6,634 pages of information to her which cost Rs.13,268/- as ascertained from letter dated 13.8.2014 of the Principal addressed to Smt. Saxena. The allegation against the Principal is unsubstantiated and far from truth.

14) The administrative transfer was ordered after following the due procedure and complying with the provision of Transfer Policy. It is to reiterate the continuance of Smt. Saxena in the present Vidyalaya is not conducive for the following irregularities/lapses committed by her:-

- a) She does not perform the duties assigned to her as an Assistant House Master in the Vidyalaya apart from her academic duties.
- b) Whenever any order is served on her by the Principal of the Vidyalaya instead of politely accepting the said order she makes unwanted comments on the office order itself which is an utter disregard to the controlling authorities.
- c) She often uses the mobile phone in the academic block including the class room despite the guidelines not to use the mobile phones during the academic hours.
- d) Whenever she is asked to comment on her poor performance of academic she used to reply in a very indecent manner to the higher authorities.
- e) She did not maintain subject average as well as the pass percentage in the subject (i.e. Mathematics) as per the bench mark fixed by the Samiti.
- f) She had inflated the marks of students while uploading the same on the CBSE portal and committed gross negligence on her part.
- g) She levels false allegation against the higher authorities whenever shortcomings are pointed out to her.
- h) She also instigates other teachers to form a group that acts against the Vidyalaya Administration.

AND WHEREAS, the contention of Smt. Divya Saxena in the aforesaid OA No.2755/2014 that the transfer was (i) in violation of transfer policy (ii) a measure of penalty (iii) discriminatory, arbitrary and without application of mind (iv) victimizing in nature (v) mala fide in nature and (vi) violative of article 21 of Constitution of India are misleading, far from truth and not tenable.

In fact Jawahar Navodaya Vidyalayas are co-educational and residential nature. Teachers in these

Vidyalayas are loco-parents who take care of the children during their stay in the Vidyalaya. In addition to the teaching job, the teachers in the JNVs are entrusted with certain essential duties like House Master duties, mess duties, MOD duty, escort duties etc. Non-cooperation/performances of the assigned duties on the part of the teacher concerned creates indiscipline atmosphere in the Vidyalaya campus which ultimately affects the very objective of the Vidyalaya to impart good quality modern education to the rural talented children ensuring holistic development of the students. In the interest of the organization the errant teacher needs to be disciplined as a deterrent measure to avoid recurrence of such irregularities.

AND NOW THEREFORE, in view of the aforesaid facts and circumstances the undersigned finds no merit in the representation of Smt Divya Saxena. Rather her transfer on administrative grounds, being non-punitive in nature, is in order and also in the interest of the Organization. Accordingly her representation stands rejected being devoid of merit. She is directed to join at the place of her transfer i.e., JNV, Gajner, District Bikaner (Rajasthan) with immediate effect.

This is issued in compliance of the Hon'ble CAT order No.2755/2014 dated 27th August 2014.ö

(iii) After the above order was passed by the Commissioner, NVS, rejecting the applicant's representation against the impugned order of her transfer, the Principal, JNV, Jaffar Pur Kalan, New Delhi, issued office order dated 6.9.2014, which is reproduced below:

Office Order

As per NVS RO Jaipur letter No.F79-2(C) Admn. Transfer/NVS-JR/P&E/2013/5542-5548 dated 04/06/2014 Smt. Divya Saxena PGT Maths was transferred from this Vidyalaya to JNV Gajner, Distt. Bikaner (RAJ) and relieved on 05/08/2014 vide this office letter No.F.1-1/JNV/JAF/P.F.-Divya Saxena (PGT Maths)/2014-15/259-262 dated 05/08/2014 in absentia because she refused to receive the orders.

Smt. Divya Saxena has filed an OA No.2755/2014 against the above said transfer order before the Hon'ble CAT, Principal Bench, New Delhi which was disposed by Hon'ble

CAT, New Delhi, vide order dated 27/08/2014 with the direction to the Commissioner, NVS to treat the averments of this OA as representation and decide the same within a period of two weeks.

In compliance of aforesaid order of Hon'ble CAT, the Commissioner, NVS, after considering the representation did not find any merit and rejected the representation with the speaking order bearing No.F.11-31(1)/2014-NVS (Estt.)/1183 dated 05/09/2014 copy enclosed with the direction to Smt. Divya Saxena to join at the place of her transfer, i.e., JNV Gajner, District Bikaner (RAJ) with immediate effect.

In compliance of the Commissioner order No.F.11-31(1)/2014-NVS(Estt.)/1183 dated 05/09/2014 Smt. Divya Saxena (PGT Maths) is hereby relieved from this Vidyalaya on 06/09/2014 (F/N) with instruction to report to the Principal, JNV, Gajner, District Bikaner (RA)

She is entitled for transfer benefits as per NVS norms.ö

6. We have given our thoughtful consideration to the facts and circumstances of the case, and the rival submissions made by the learned counsel for the parties.

7. Clause 6(c) of the transfer policy circulated vide notification dated 4.4.2012 states that the respondent-NVS shall ordinarily displace an employee whose continuance at particular station is not conducive from administrative point of view. As regards the administrative transfer of employees covered under Clause 6(c), ibid, it has been stipulated in the transfer policy that the respondent-NVS may transfer the employee to a station/JNV as found appropriate on the basis of detailed inquiry as considered deemed fit in the case and after recording reasons of such transfer, and that transfer will not be used as a punitive measure. We have found that in his speaking order dated 5.9.2014, the Commissioner, NVS, has recorded sufficient reasons for issuance of the impugned order of

transfer of the applicant. After considering the materials available on record, we are unable to accept the contention of the applicant that the impugned order of transfer is punitive in nature and has been issued by the respondents in violation of any of the provisions of the transfer policy.

8. **In Shilpi Bose Vs. State of Bihar**, 1991 Supp.(2) SCC 659, the Hon'ble Supreme Court, at page 661, para 4, has observed thus:

ð4. 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 orderí ö

9. **In Union of India Vs. S.L.Abbas**, (1993) 4 SCC 357, at page 359, Para 7, the Hon'ble Supreme Court has observed thus:

ð7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly, if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration.ö

10. **In State of M.P. and another Vs. S.S.Kourav and others**, 1995(2) SLJ 109 (SC) = (1995) 3 SCC 20, the Hon'ble Supreme Court has observed:

öThe Courts or Tribunals are not the appellate forums to decide on transfer of officers on administrative grounds; the wheels of administration should be allowed to run smoothly and the Courts or Tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places; it is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by mala fide or by extraneous consideration without any factual background foundation.ö

11. Again, the Hon^{ble} Supreme Court in **State of U.P. and Another Vs. Siya Ram and another**, 2005 (1) SLJ 54 (SC): (2004) 7 SCC 405, where the respondents were transferred on administrative grounds, the Hon^{ble} Supreme Court has observed thus:

ö5. The High Court while exercising jurisdiction under Articles 226 and 22 of the Constitution of India had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. 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 the other is not only 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. This position was highlighted by this Court in National Hydroelectric Power Corp. Ltd. V. Shri Bhagwan.

6. The above position was recently highlighted in *Union of India v. Janardhan Debanath*. It has to be noted that the High

Court proceeded on the basis as if the transfer was connected with the departmental proceedings. There was not an iota of material to arrive at the conclusion. No mala fides could be attributed as the order was purely on administrative grounds and in public interest.ö

12. Again, the Hon^{ble} Supreme Court in **State of U.P. Vs. Gobardhan Lal**, 2004 (3) SLJ 244(SC): (2004) 11 SCC 402, in paragraphs 7 and 8, has observed thus:

ö7. It is too late in the day for any Government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. 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 contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfer or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the Competent Authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or

Tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of Competent Authorities of the state and even allegations of mala fides when made must be as to inspire confidence in the Court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer.ö

(Emphasis supplied)

13. After having considered the facts and circumstances of the case, particularly the reasons assigned by the Commissioner, NVS, in his speaking order dated 5.9.2014, in the light of the decisions referred to above, we find no scope to interfere with the impugned order of transfer.
14. Resultantly, the O.A., being devoid of merit, is dismissed. No costs.

(PRAVEEN MAHAJAN)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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