

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA./21/1035/2018

Dated: 26/04/2019

BETWEEN:

A. Srinivas,
S/o.Late A. China Subbarayudu,
Aged about 50 years,
Occ: Technical Labourer, Gr.C,
O/o. Director, Southern Printing Group,
Survey of India, Uppal, Hyderabad.

..... Applicant

AND

1. The Surveyor of General (HQ),
Survey of India, Dehradun,
Uttarakhan, India – 248 001.
2. The Additional Surveyor General (HQ),
Printing Zone, Survey of India, Dehradun,
Uttarakhand, India – 248 001.
3. The Director,
Southern Printing Group,
Survey of India, Uppal, Hyderabad – 500 039.
4. The Union of India rep. by its Secretary,
Department of Science and Technology,
Technology Bhavan, New Delhi – 110 016.

.....Respondents

Counsel for the Applicant : Mr. M.R. Tagore, Advocate
Counsel for the Respondents : Mr. V.VinodKumar, Sr. CGSC

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Hon’ble Mr. V.Ajay Kumar, Judl. Member
Hon’ble Mrs. Naini Jayaseelan, Admn. Member

ORAL ORDER
{Per Hon'ble Mr. V. Ajay Kumar, Judl. Member}

The applicant, who is working as Technical Labourer under the respondents, filed the OA, questioning the Annexure –XI dated 10.08.2018 whereunder he was posted at Eastern Printing Group (EPG), Kolkata on his selection in the Competitive Examination for Recruitment on promotion to the post of Reproduction Staff (Gr.IV), under the 30% promotion quota, and also the Annexure-XV dated 15.10.2018 whereunder his representation dated 16.08.2018 for retention at Southern Printing Group (SPG) i.e. at Hyderabad was rejected.

2. Earlier, the applicant filed the O.A.No.845/2018 challenging Annexure-XI, dated 10.8.2018 and this Tribunal disposed of the said O.A. vide Order dated 05.09.2018 by directing the respondents to consider his representation and to pass appropriate orders thereon in accordance with law. The respondents, in compliance of the said order, have passed Annexure-XV, Speaking Order dated 15.10.2018 by stating that there is no vacancy at Hyderabad as there is no other Printing Groups in and around Hyderabad wherein the applicant can be posted.

3. After issuance of the impugned Speaking Order Annexure-XV, dated 15.10.2018 and since no stay was granted in the instant O.A., the applicant joined at Kolkata on 13.11.2018 and has been working there till today.

4. Heard Mr. M.R. Tagore, learned counsel for the applicant and Mr. N. Sambasiva Rao proxy of Mr. V. Vinod Kumar, learned Senior Central

Government Standing Counsel for the Respondents and perused the pleadings on record.

5. In **Rajendra Singh and others Vs. State of UP & others**, (2009) 15SCC178, the Hon'ble Apex Court held, with regard to the transfer policy guidelines and other instructions, 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.”

6. The learned counsel for the applicant, while not disputing the aforesaid legal position on the subject matter, however, submits that in view of the transfer policy applicable to the applicant, a Group-C employee shall be normally be posted at the same printing group. Though the applicant secured more marks in the competitive examination, the respondents retained persons, who got less marks in SPG, whereas the applicant was posted at Eastern Printing Group (EPG). Learned counsel for the applicant further submits that even after passing of the impugned Annexure-XI dated 10.08.2018, the respondents brought back some of the persons who were promoted to other printing production groups to the SPG but they have not given the said opportunity to the applicant.

7. Learned counsel for the applicant while drawing our attention to his rejoinder averments, specifically stated that two persons Shri. A.R. Shelke and M.S. Sangeetha Rao, who are holding Group.C posts and are at Southern Printing Group (SPG), Hyderabad, and are going to retire on 31.05.2019, and therefore, the applicant's case may be considered against those vacancies. He also drew our attention to proceedings dated 19.12.2018 (enclosed to his rejoinder) to the effect that two persons, namely Mr. T. Sai Ram, and Ms. G. Padma Shree who are working as SPG in

Group-C [Reproduction Staff (Gr.IV)] were promoted and the case of the applicant can also be considered by the respondents in those vacancies. The learned counsel further submits that the applicant is having two daughters and his elder daughter's marriage is scheduled to be held in May, 2019 and, hence, the respondents may be directed to consider his request.

8. Learned counsel for the respondents, while submitting that the transfer of a public servant is an incidence of service and he cannot press / choose for a particular place of posting. Learned counsel submits that certain persons who were promoted along with the applicant were retained in the SPG. He however submits that in the instant transfers the said actions were taken by the respondents keeping in view the administration exigency and personal difficulties of the said persons such as advance age etc., and hence, there is no illegality or irregularity in the action of the respondents in rejecting the claim of the applicant and passing the impugned Annexure -XV dated 15.10.2018 .

9 It is seen that in pursuance of the impugned Annexure-XV dated 15.10.2018 the applicant has joined at Kolkata working there for all these days. It is seen that the applicant has not preferred representation ventilating his grievance after impugned Annexure-XV dated 15.10.2018.

10. In the circumstances, the OA is disposed of, without going into merits of the case, by directing the applicant to make an appropriate representation to the respondents within two weeks from today, and on

receipt of such representation from the applicant, the respondents shall consider the same sympathetically in any existing vacancy in Southern Printing Group (SPG) and to pass appropriate order in accordance with law and rules, within a period of sixty days therefrom. No order as to costs.

(NAINI JAYASEELAN)
ADMN.MEMBER

(V.AJAY KUMAR)
JUDL. MEMBER

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