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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1181 of 2003

New Delhi, this the 11th day of September, 2003

HON BLE MR.KULDIP SINGH, MEMBER(JUDL)

Shri A.K. Thakur
S/o Shri Shakti Chand
R/o 1488/13,
Govind Puri,
Kalkaji,
New Delhi.

....Applicant

By Advocate. Shri Aditya Madan.

Versus

1. Union of India
through Secretary
Ministry of Urban Development
and Employment,
Nirman Bhawan,
New Delhi.

2. Central Public Works Department
through Director,
Directorate of Horticulture,
I.P. Bhawan,
New Delhi-110002.

..Respondents

By Advocate. Shri R.N. Singh.

O R D E R

The applicant has assailed the order dated 5.5.2003 under which the applicant has been transferred to Bhubneshwar, Orissa arbitrarily. The applicant alleges that he is presently posted as Section Officer in the Horticulture Department under the respondents.

4. It is further stated that the applicant has been transferred to Bhubneshwar in a capricious and arbitrary manner. The applicant has filed this OA stating that the impugned order has been passed without considering that several persons holding the post as that of the applicant who has more stay in Delhi continue to remain posted in Delhi whereas the applicant is a victim of pick and choose policy of the respondents.

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3. It is further alleged that the applicant figures at S.No.15 who has joined service on 9.9.1991 and all others who had joined the respondents at Delhi have been posted in Delhi since as far back as 1.8.83 and are continuing at Delhi from their initial joining since 1983.

4. It is further stated that the applicant was asked for option for transfer and the applicant had given his option for Shimla, Chandigarh and Jaipur but he has been transferred to Bhubhaneshwar. It is further stated that the respondents have not acted in a transparent manner so the transfer order is liable to be quashed.

5. The respondents who are contesting the OA submitted that the impugned transfer order has not been passed in violation of any statutory rules and/or because of any mala fide at all.

6. It is further stated that the impugned order has been passed by the competent authority in public interest and administrative exigencies.

7. It is further stated that the transfer of various officers was considered by the members of the Committee which included Director of Horticulture (NDR) as Chairman, Director of Horticulture (DR) as Member, Director (Personnel), PWD as Member and Dy. Secretary (Admin.) as its Member.

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8. Besides that a Hard Case Committee has also been constituted by the DG (Works), New Delhi who were to hear appeals regarding the transfer and posting of SO (H) in genuine case. Rather it is further stated that the applicant has the longest stay at Delhi as he is in Delhi from the date of his appointment, i.e., w.e.f. 9.9.1991 and he is due to be transferred outside Delhi rotationally.

9. It is denied that any pick and choose policy has been adopted.

10. The names of certain officers who are stated to have longest stay such as Sathir Singh, S.P. Sisodia, A.K. Deshwal and Shri Adesh Kumar whose name appeared in the list readiness of SO (Hort) having longest stay at Delhi and why they have not been transferred has been explained in the reply so it is prayed that there is no ground of mala fide so it is the prerogative of the respondents to transfer any persons wherever they can use their services best so the applicant has no cause of grievance as such the OA should be dismissed.

11. I have heard the learned counsel for the parties and gone through the records of the case.

12. The learned counsel for the applicant has referred to Annexure-A and B which contained a readiness of SOs who have longest stay at Delhi and that shows that there are certain persons who are in Delhi from 1983 to 1999 who have not been transferred whereas the applicant who had joined in September, 1991 has been transferred.

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13. The respondents in their reply had explained the situation and submitted that Shri Satbir Singh was a duly elected General Secretary of the CPWD Horticultural Section Officers Association so under the OM of DOP&I dated 19.8.88 Satbir Singh could not be transferred as the Union functionaries should not be shifted from main administrative office to subordinate office (including other offices or building) Union function for the purpose would be President and General Secretary of the Branch unit of the recognised union/association.

14. Shri S.P. Sisodia joined the Parliament House in May, 2000 and considering the prevailing security scenario no officer of all wing of CPWD including Horticulture should be transferred/posted in Parliament House Complex without the prior approval of Lok Sabha Secretariat, New Delhi and as per Annexure R-6 permission has not been given to transfer him.

15. As regards Adesh Kumar SO (H) is concerned, he had already been transferred to Jaipur and Deepak Kundra had been transferred to Shimla and all other have already been transferred.

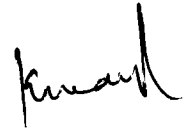
16. The counsel for the respondents then also referred to Annexure R-2 and had also shown that while transfer and posting were considered all the facts were brought to the notice of the Committee on transfer and posting who after considering the same had decided which officer is to be posted at what place.

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17. On going through the minutes of the Committee at the time of consideration of transfer and posting, I find that it does not smack of any mala fide in case of transfer of the applicant and the applicant cannot seek any interference in the order passed by the Screening Committee which has been passed after due consideration and since the transfer have been made in public interest so the same does not warrant any judicial interference.

18. In view of the above, OA has no merits and the same is dismissed. No costs.



(KULDEEP SINGH)
MEMBER (JUDICIAL)

Rakesh