

(2010) 04 AHC CK 0323
In the Allahabad High Court
Case No : Writ Petition No. 1822 (S/S) of 2010

Laloo Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 01-04-2010

Acts Referred:

Citation : (2011) 3 AWC 2233

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anil Kumar, J.—Heard Sri Ajai Kumar Jaiswal, learned Counsel for the Petitioner, Sri Adnan Ahmad learned standing counsel for Central Government and Sri Dheeraj Raj Singh holding brief of Sri Vivek Raj Singh for opposite parties No. 2 to 6.

2. By means of the present writ petition, the Petitioner has challenged the order dated 5.3.2010, passed by opposite party No. 5 by which he has been transferred from Indian Telephone Industries Limited Mankapur. Gonda to C.P.D.-G.S.M. Ahmedabad and also order dated 20.3.2010, passed by opposite party No. 5 by which the Petitioner's representation dated 10.3.2010 has been rejected

3. In brief. the facts of the case as submitted by the learned Counsel for the Petitioner are that the Petitioner, who is presently working on the post of Executive Grade-1 in Indian Telephone Industries, Mankapur, Gonda, has been transferred from Indian Telephone Industries Limited Mankapur, Gonda to C.P.D.-G.S.M. Ahmedabad by means of order dated 5.3.2010, passed by opposite party No. 5. Thereafter, the Petitioner submitted a representation dated 10.3.2010 before opposite party No. 5, the same was rejected by order dated 20.3.2010, hence the present writ petition.

4. learned Counsel for the Petitioner fairly admitted that the Petitioner is holding a transferable post.

5. The law is well-settled that transfer being exigency of service can be effected by the employer concerned in accordance with its administrative exigency, in the interest of administration and public interest at any point of time and that cannot be monitored and guided by this Court unless it may be shown that transfer order is vitiated on account of the contravention of the statute, or lacks jurisdiction or mala fide.

6. Admittedly, in the present case, it is not disputed by the learned Counsel for the parties that the Petitioner is holding the transferable post as such in view of the judgment passed by the Hon''ble Supreme Court in the case of Mrs. Shilpi Bose and others Vs. State of Bihar and others, wherein Hon''ble Supreme Court has held as under:

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 order 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.

7. The aforesaid view has been reiterated by Hon''ble Supreme Court in the case of Union of India and another Vs. N.P. Thomas, and N.K. Singh Vs. Union of India and others, holding therein if a person holding a transferable post, is transferred, there is no violation of any statutory/mandatory rules then the same is not subject to judicial review.

8. Further, in the case of Chief General Manager (Telecom), N.E. Telecom Circle and another Vs. Rajendra Ch. Bhattacharjee and others, Hon''ble Supreme Court has held as under:

It is needless to emphasise that a Government employee or any servant of a public undertaking has no legal right to insist for being posted at any particular place. It cannot be disputed that the Respondent holds a transferable post and unless specifically provided in his service conditions, he was no choice in the matter of posting. Since the Respondent has no legal or statutory right to claim his posting at Agartala, therefore, there was no justification for the Tribunal to set aside the Respondent ''s transfer to Dimpur.

9. Further, in the present case, learned Counsel for the Petitioner has raised an argument that the order of transfer is mala fide in nature. The said argument raised by the learned Counsel for the Petitioner is wholly misconceived in view of the law laid down by Hon''ble Supreme Court in the case of Federation of Railway Officers Association and Others Vs. Union of India (UOI), If plea of mala fide is raised by the Petitioner then the person against whom the malice is alleged,

should be made a party but in the present case, Petitioner has not made any person by name against whom mala fide is alleged, so the Petitioner cannot be allowed to raise the said plea, therefore, the order cannot be said to be vitiated on the ground of mala fide.

10. In view of above said fact as in the instant case, the Petitioner is holding a transferable post and by means of order" dated 5.3.2010, passed by opposite party No. 5, the Petitioner has been transferred from Indian Telephone Industries Limited Mankapur, Gonda to C.P.D.-G.S.M. Ahmedabad. Thereafter, his representation dated 10.3.2010 which he preferred against the transfer order, has also been rejected on 20.3.2010 by the competent authority/opposite party No. 3. Accordingly there is neither any illegality nor infirmity in the orders under challenge in the present writ petition.

11. For the forgoing reasons, the present writ petition lacks merits and is accordingly dismissed.

No order as to costs.