

Ravinder Kumar Vs. Union of India and ors

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Court : Delhi

Decided On : May-16-2014

Judge : Gita Mittal

Appellant : Ravinder Kumar

Respondent : Union of India and ors

Advocate for Pet/Ap. : Mr. R.N. Singh, Mr. A.S. Singh, Mr. Jatan Singh, Mr. Saqib Qureshi

Judgement :

\$~15 to 17 * IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

16. h May, 2014 % + W.P.(C) 1798/2014 & CM No.3768/2014 SATBIR SINGH Through : Petitioner Mr. R.N. Singh and Mr. A.S. Singh, Adv. versus UNION OF INDIA & ORS Through : + Respondents Mr. Jatan Singh, CGSC with Mr. Saqib Qureshi, Adv. W.P.(C) 1799/2014 & CM No.3769/2014 RAVINDER KUMAR Through : Petitioner Mr. R.N. Singh and Mr. A.S. Singh, Adv. versus UNION OF INDIA & ORS Through : + Respondents Mr. Jatan Singh, CGSC with Mr. Saqib Qureshi, Adv. W.P.(C) 1919/2014 & CM No.4006/2014 S.N. LABH Through : Petitioner Mr. R.N. Singh and Mr. A.S. Singh, Adv. versus UNION OF INDIA & ORS Through : W.P.(C)Nos.1798/2014, 1799/2014 & 1919/2014 Respondents Mr. Jatan Singh, CGSC with Mr. Saqib Qureshi, Adv. page 1 of 6 CORAM: HON'BLE MS. JUSTICE GITA MITTAL HON'BLE MS. JUSTICE DEEPA

SHARMA GITA MITTAL, J.

(Oral) 1. Pursuant to the order dated 4th April, 2014, the respondents have filed an affidavit enclosing correspondence with regard to the matter of postings/transfer of CPWD officers in the Parliament House Complex as well as the Prime Minister House and Office.

2. Our attention is drawn to letter No.28/8/2005-EC-I/EW-1 dated 21st November, 2005 sent by Shri Mehar Singh, Under Secretary to the Government of India to the Director General (Works). As per this letter, the DG (Works) of the CPWD has been informed that all postings/transfers of CPWD officers up to the level of Superintending Engineer to Parliament House Complex are effected with the prior concurrence of Lok Sabha Secretariat.

3. The respondents have also placed before us the office memorandum dated 18th July, 2012 issued by the Deputy Secretary (Works) of the Government of India, Ministry of Urban Development and Poverty Alleviation on the issue of postings and transfers of officers of the CPWD assigned with the responsibility of maintaining PM House and PM Office.

4. A direction was issued that the PMO may be consulted in advance before making the postings/transfer of the officers of the rank of Executive Engineer and above who are assigned the responsibility of looking after the work of PM House or PM Office. W.P.(C)Nos.1798/2014, 1799/2014 & 1919/2014 page 2 of 6 5. A bare reading of the above communication relied upon by the respondents would show that there is no prohibition at all in effecting transfers of officers posted in Department of Horticulture of the CPWD. The prior consultation relates to Executive Engineer/Superintending Engineer of the CPWD. We are informed that there is no post of Executive Engineer or Superintending Engineer in the Department of Horticulture. This letter does not relate to postings in the Department of Horticulture.

6. The tenure extensions of Executive Engineers and Superintending Engineers of the CPWD appear to have basis. It would appear to have basis for the reason that there may be on going civil or electrical work or building projects which may be

involving special sensitivity keeping in view the specific building/concerned office concerned. Extensions on such grounds are recognized under the rules.

7. Mr. Jatan Singh, learned Standing counsel and Mr. Saqib, learned counsel appearing for the respondents have also drawn our attention to a communication dated 24th - 25th April, 2013 written by Shri VK. Gupta, Director General of the CPWD informing the Secretary General of the Lok Sabha Secretariat with regard to officers in the Department of Horticulture who have been posted in Delhi since as back as in the year 2000 whereas normal tenure of posting in Delhi is only five years. The DG, CPWD has also stated that no relieving of such officers is causing problem in effecting transfer/posting of other officers and that grant of unilateral extension to one particular officer creates indiscipline amongst its W.P.(C)Nos.1798/2014, 1799/2014 & 1919/2014 page 3 of 6 officers.

8. By another letter dated 1st of July, 2013, a panel of officers was placed by the DG, CPWD before the Secretary General, Lok Sabha Secretariat for appointment as Assistant Director, Horticulture. This suggestion of the DG CPWD has not even been considered.

9. We are informed by Mr. Jatan Singh, learned Standing Counsel for the respondents that the communication dated 28th June, 2013 has been responded by Shri Rajeev Topno, Director by a communication dated 18th July, 2013 wherein it is stated in view of the office exigencies, it has been decided to retain the services of two officers of the Horticulture Department at the PM Office/ House for the time being.

10. The transfer policy requires to be strictly implemented so far as this department is concerned. So far as Department of Horticulture is concerned, the respondents cannot deviate from the applicable rules. Nothing is placed before us which shows the permissibility of such extensions. Even otherwise the notion of exigency of service without anything more is vague and extremely flimsy. The anxieties of the Director General of the CPWD who has repeatedly endorsed the resultant indiscipline in the Department because of the extensions deserves to be given due attention. This aspect of the matter appears to have been lost sight in the correspondence which has ensued as well as the extensions to the officers of

the Horticulture Department. Some officials have been posted in Delhi since the year 2000. W.P.(C)Nos.1798/2014, 1799/2014 & 1919/2014 page 4 of 6 11. There is no prohibition on the CPWD transferring the staff of the Department of Horticulture as per their transfer policy. The respondents have filed applications being CM No.6257/2014 in W.P.(C) 1798/2014; CM No.6259/2014 in W.P.(C) 1799/2014 & CM No.6258/2014 in W.P.(C) 1919/2014 seeking vacation of the order dated 4th April, 2014 whereby we had kept the transfers of the petitioners in abeyance. It has been contended that respondents stand relieved in view of their transfer.

12. This position is disputed on behalf of the petitioner by learned counsel who contends that relieving order has been issued by the respondents unilaterally without their being any handing over or taking over of charge by the petitioner.

13. It is also submitted that there were interim orders in favour of the petitioners in the Central Administrative Tribunal and petitioner continue to be posted at Delhi by virtue of the order dated 4th April, 2014 passed by this court.

14. Having heard learned counsel for the parties, we direct as follows:(i) The petitioners shall effect the handing over of the charge to their successor within a period on or before 30th May, 2014. (ii) The petitioners are permitted to join the place of posting on or before the 16th June, 2014. (iii) The petitioner shall be treated as having been posted at Delhi till the date of joining at the place of posting or 16th June, 2014, whichever is earlier and shall be entitled to all benefits of service including their emoluments W.P.(C)Nos.1798/2014, 1799/2014 & 1919/2014 page 5 of 6 (iv) The respondents shall ensure that transfer policy issued by CPWD is fairly enforced by all the authorities. This writ petition and all pending applications are disposed of in the above terms. Dasti. (GITA MITTAL) JUDGE (DEEPA SHARMA) JUDGE MAY16 2014 mk W.P.(C)Nos.1798/2014, 1799/2014 & 1919/2014 page 6 of 6