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Ramesh and ors. Vs. M.C.D.

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Court : Delhi

Decided On : Jan-14-2000

Reported in : 2000IIAD(Delhi)261; 83(2000)DLT682

Judge : A.K. Sikri, J.

Acts : Constitution of India - Article 226

Appeal No. : CWP. No. 3238 of 1998

Appellant : Ramesh and ors.

Respondent : M.C.D.

Advocate for Def. : Mr. R.K. Sharma for ;Mr. R.D. Jolly Advs.

Advocate for Pet/Ap. : Mr. L.R. Luthra Adv

Judgement :
ORDER

A.K. Sikri, J.

1. All the petitioners are working as Safai Karamcharis with respondent MCD. The petitioner Nos.1 and 2 are brothers, petitioner No.3 is the wife of petitioner No.2, petitioner No.4 is the wife of petitioner No. 1 and petitioner No.5 is the: sister-in-law of petitioner No. 1. They are aggrieved against order dated 25.5.1998

transferring them to different places. There is no dispute that the services of the petitioners can be transferred from one place to another place as per their service condition. However transfer order is challenged on the ground that the same is passed in a malafide manner. The petitioners were posted at village Chattarpur Delhi which is their place of residents also. It is alleged in the petition that petitioner No. 1 made a complaint to Anti-corruption Branch of the Government of National Capital Territory of Delhi that his senior Shri Sriniwas Sharma, Assistant Sanitary Inspector is demanding a bribe from him. On 9.12.1997, the police laid a trap and caught him red handed while accepting a bribe of Rs. 1,000/- from petitioner No. 1. After the said trap seniors of the petitioners are putting all sorts of pressures on petitioner No. 1 to depose favourably to Shri Sriniwas Sharma and as petitioner No.1 has not buckled under the pressures, the petitioners are harassed and impugned order of transfer was passed to teach them a lesson. It is further alleged that earlier also order was issued on 17.12.1997 the copy thereof was never delivered to the petitioners. However by the time they came to know of this order, the respondents passed order dated 30.3.1998 transferring the petitioners out of village Chattarpur in supersession of earlier transfer dated 17.12.1997.

2. In the counter affidavit filed by the respondents, the allegations of malafides leveled in the writ petition are denied and it is stated that orders were passed after the inspection was carried out by the Sanitation Department on receiving complaints from the local residents about the misbehavior of the petitioners and also about non-performance of duties by them. These orders were duly delivered to the petitioners but they did not report to their respective offices. On the representations, they were again transferred to village Chattarpur vide order dated 30.3.1998 but the behavior of the petitioners remained same and several complaints were made from the local residents about the behavior of these petitioners and it was in these circumstances that vide order dated 18.5.1998, Deputy Commissioner, South Zone, Municipal Corporation of Delhi transferred these petitioners from this area and they were warned to be dutiful and courteous in their behaviour. No rejoinder is filed controverting the averments contained in the counter affidavit. I have also perused the records produced by the respondents relating to the transfer of the petitioners which reveal that inspection of the area

was carried out with all zonal heads and local residents of Chattarpur village regarding the misbehaviour of the petitioners. The record further reveals that Deputy Commissioner, South Zone had considered the matter and decided to transfer the petitioners of different places in view of these complaints with warning to be careful and sincere in their duties failing which the action will be taken against them. In view of the above, more so when the order is passed at high level namely by Deputy Commissioner, South Zone, I am not convinced with the allegations of malafides leveled by the petitioners. I am also not convinced with the arguments of the counsel for the petitioner that if there were allegations of not performing the duties by the petitioners, they should have been subjected to disciplinary action instead of transfer. Note dated 18.5.1998 of Deputy Commissioner, South Zone, clearly states that while transferring these petitioners they should be warned to be careful in future and sincere to their duties failing which action would be taken. This decision was taken administratively to put them out of their place of posting i.e. Chattarpur and were given one more opportunity to behave properly. It was open to the respondents to take aforesaid administrative view of the matter by transferring them instead of taking disciplinary action.

3. No other relief was pressed.

4. This writ petition being devoid of merits, is accordingly dismissed.

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