

M. Mujibulla Vs. Union of India and Another

M. Mujibulla Vs. Union of India and Another

SooperKanoon Citation : sooperkanoon.com/818730

Court : Chennai

Decided On : Jul-11-1997

Reported in : (1997)IILLJ603Mad

Judge : P. Sathasivam, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P. No. 2737/1997

Appellant : M. Mujibulla

Respondent : Union of India and Another

Advocate for Def. : V.T. Gopalan, Adv.

Advocate for Pet/Ap. : D. Sivakumaran, Adv.

Judgement :

ORDER

1. By consent of all the parties the main writ petition itself is taken up for final disposal. Against the order of transfer transferring the petitioner from Salem Steel Plant to Bokaro Steel Plant, the petitioner has approached this Court to quash the said order on various grounds.

2. The petitioner joined service in 1970 as Security-cum-Movement Officer in Thungabathra Steel Products, Thungabathra Dam, Bellary District, Karnataka.

During the year 1972 the petitioner was absorbed in Central Industrial Security Force (hereinafter called as 'CISF') as Sub-Inspector. In 1978 he was promoted as Inspector and in 1987 as Assistant Commandant. In 1994 he was promoted as Deputy Commandant and on promotion he was posted as Deputy Commandant at IB Reserve Battalion, CISF, Ranchi, Bihar. In March 1996, he was transferred to Salem and posted as Deputy Commandant at the Salem Steel Plant. Suddenly, on February 22, 1997 the petitioner received a telex message from the second respondent which is to the effect that the petitioner is transferred from CISF Unit, Salem to the CISF Unit, Bokaro Steel Plant Unit at Bokaro, Bihar with immediate effect. Aggrieved by the said order of transfer, the petitioner has filed the present writ petition. It is contended that the petitioner was posted at Salem only in March, 1996 and as such there was no necessity to transfer him within a period of eleven months. There is no compelling necessity to resort to the transfer. It is also contended that since the petitioner who is a CISF personnel and completed more than 20 years of service or 50 years of age whichever is earlier, should he posted in his Home Zone only.

3. On February 28, 1997 this Court has entertained the writ petition and granted stay for two weeks and it was subsequently extended from time to time. The second respondent has filed a petition to vacate the interim order as well as for dismissal of the main writ petition. In the counter affidavit it is contended that in the instant case of transfer of the petitioner is in conformity with the instructions issued as it is also on administrative grounds based on some complaints. The second respondent has received many complaints and in the larger interest of the administration in order to collect evidence, he has been shifted to Bokaro. The second respondent has effected such transfer on compelling grounds in the interest of the administration. In those circumstances, they prayed for dismissal of the main writ petition.

4. In the light of the above pleadings, I have heard Mr. D. Sivakumaran, learned counsel for the petitioner and V. T. Gopalan, learned senior counsel for the respondents.

5. Though the petitioner has raised several grounds in the affidavit, the learned counsel for the petitioner confined his attack to only one, namely, the impugned order of transfer is not based on administrative grounds. He elaborated that in view of various averments particularly complaints made against the petitioner in the counter affidavit are sufficient to show that the impugned order of transfer is not due to administrative grounds, but as punishment or punitive in nature. On the other hand, Mr. V. T. Gopalan, learned senior counsel, after taking me through the detailed counter affidavit and after placing the relevant files, submitted that in the interest of the administration, the petitioner had to be transferred to other place, hence according to him nothing wrong in the impugned order of transfer.

6. I have carefully considered the rival submissions.

7. As stated earlier, the learned counsel for the petitioner repeatedly contended that absolutely there is no administrative reason for transfer and the same was passed based on some complaints. If that is so, according to him, without giving an opportunity and without framing charge and without any enquiry, it is not possible for the respondents to impose a punishment by way of his transfer to Bokaro Steel Plant. No doubt, in the impugned order there is no reference with regard to complaints or enquiry. It is a transfer simpliciter. During the course of argument, the learned senior counsel has brought to my notice the original files relating to the petitioner. As requested by him, I have carefully perused the relevant files relating to the petitioner. In the light of what is stated in the file, the respondents have to necessarily collect information and as rightly argued by the learned senior counsel for the respondents, in the larger interest of the administration, the petitioner has to be kept away. There is no apprehension that if any action is taken, the respondents certainly are duty bound to give sufficient opportunity to the petitioner in accordance with law.

8. In those circumstance, I do not find any error in the order of the transfer. It is settled law that a transfer which is an incident of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by mala fides or infraction of any profound norm or principle governing the transfer. I have already mentioned that there is no complaint regarding arbitrariness or contrary to any

circular or guidelines or norms. Even the faint argument regarding mala fide, the petitioner has not substantiated. Further, while considering the scope of jurisdiction of this Court for interference with the transfer order, the Apex Court in a decision reported in Union of India v. S. L. Abbas : (1993)11LLJ626SC has held as follows at p. 627 :

'Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it.'

9. In view of the law laid down by the Apex Court with regard to order of transfer in the absence of any material as pointed out by their Lordships, I do not find any acceptable ground to interfere with the impugned order. The transfer is on the basis of administrative grounds. I am also satisfied with the reasons given by the respondents in their counter affidavit as well as in the original record produced by the learned senior counsel. A perusal of the record clearly shows that the petitioner cannot be allowed to continue in the place from where he has been shifted.

10. Under these circumstances, I do not find any reason to interfere with the order of transfer, consequently, the writ petition fails and the same is dismissed. No costs.