

Union of India and Others

Vs

H. N. Kirtania

Civil Appeals Nos. 2943-45 of 1989

(K. N. Singh, M. H. Kania JJ)

12.07.1989

ORDER

1. Delay condoned.

2. Leave granted.

3. These three appeals are directed against three orders of the Calcutta High Court dated April 12, 1985, October 11, 1985 and January 24, 1986.

4. H. N. Kirtania, respondent is in the employment of the Central Government, under the Central Passport Organisation. At the relevant period he was posted as Public Relations Officer in the Regional Passport Office, Calcutta. He was transferred from Regional Passport Office, Calcutta to Jaipur under an order dated September 14, 1985. He was relieved from Regional Passport Office, Calcutta on March 15, 1985 with a direction to report for duty to the Regional Passport Office, Jaipur. He did not join his duty at Jaipur instead he proceeded on leave for a month. During the period, he was on leave the respondent filed a writ petition in the Calcutta High Court assailing the validity of his transfer. A learned Single Judge issued order in April 12, 1985 restraining the Central Government authorities from giving effect to the order of transfer and release. As application for vacating the interim order was filed on behalf of the appellant but the same was not disposed of. In the meantime, contempt proceedings were initiated against the authorities as the instance of the respondent on the allegation that he was not allowed to rejoin his duty at Calcutta in pursuance to the interim injunction. A learned Single Judge by his order dated October 11, 1985 issued rule for contempt to the appellants and further issued interim direction for paying all arrears of salary to the respondent within three weeks. The appellants filed an appeal before a Division Bench of the High Court against the aforesaid order along with an interim stay application. The interim stay application was dismissed by a Division Bench of the High Court on January 24, 1986. In view of these orders the transfer order could not be implemented and the respondent continued to stay at Calcutta.

5. After hearing learned counsel for the parties we do not find any valid justification for the High Court for entertaining a writ petition against the order of transfer made against an employee of the Central Government holding transferable post. Further there was no valid justification for issuing injunction order against the Central Government. The respondent being a Central Government employee held a transferable post and he was liable to be transferred from one place to the other in the country, he has no legal right to insist for his posting at Calcutta or at any other place of his choice. We do not approve of the cavalier manner in which the impugned orders have been issued without considering the correct legal position. Transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong and pressing

grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of mala fides. There was no good ground for interfering with the respondent's transfer.

6. We accordingly allow the appeals and set aside the High Court's orders dated April 12, 1985, October 11, 1985 and January 24, 1986. There will be no order as to costs.

</html