

PETITIONER:
UNION OF INDIA & ORS.

Vs.

RESPONDENT:
H.N. KIRTANIA

DATE OF JUDGMENT 12/07/1989

BENCH:
SINGH, K.N. (J)
BENCH:
SINGH, K.N. (J)
KANIA, M.H.

CITATION:
1989 AIR 1774 1989 SCR (3) 397
1989 SCC (3) 447 JT 1989 (3) 132

ACT:
Civil Services--Transfer of public servant--Administrative Tribunal upholding order--Directions regarding release order and payment of emoluments---Validity of.

HEADNOTE:

The respondent, a Central Government officer was transferred from Calcutta to Jaipur by an order dated 14th March, 1985 and relieved of his duty the next day. He, however, filed a writ petition before the High Court and obtained an interim injunction.

The writ petition was subsequently transferred to the Central Administrative Tribunal, which held that the order of transfer was not mala fide or unfair, and there was no ground for interfering with it. It, however, directed the appellants to pay all arrears of salary with allowances to the respondent and not to issue the release order unless all his emoluments were paid.

Allowing the appeal,

HELD: The Tribunal having recorded positive findings that the transfer order was legal and valid and it was not vitiated by any unfairness or mala fide, should have dismissed the writ petition. It had no jurisdiction to issue further directions regarding the release order and the payment of emoluments. [398H]

The respondent had already been relieved from the Calcutta office with effect from 15th March, 1985. Therefore, there was no question of issuing any fresh release order. [399A]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2942 of 1989.

From the Judgment and Order dated 30.11.1987 of the Calcutta Central Administrative Tribunal Court in T.A. No. 452 of 1987/C.O. 6078-W. of 1985.

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G. Ramaswamy, Additional Solicitor General, T.C. Sharma and C.V. Subba Rao for the Appellants.
Girish Chandra for the Respondents.

The following Order of the Court was delivered:

ORDER

Leave granted.

This appeal is directed against the order of the Central Administrative Tribunal, Calcutta, dated November 30, 1987.

The respondent was posted as Public Relations Officer in the Regional Passport Office, Calcutta. He was transferred from Calcutta to Jaipur under the order dated 14.3.1985, and he was relieved of his duty from Regional Passport Office, Calcutta w.e.f. 15.3.1985 with the direction to report for duty at Jaipur. The respondent instead of joining at Jaipur filed a writ petition before the Calcutta High Court and obtained interim injunction. Later on contempt proceedings were initiated by the respondent against the appellants and the High Court passed an order dated 11.10.1985 directing the appellants to allow the respondent to join at Calcutta office and to pay all arrears of salary to him. A number of orders were passed by the High Court in respondent's favour but all those orders have been set aside by this Court in Civil Appeals arising out of Special Leave Petitions Nos. 6835 to 6837 of 1986. The respondent's writ petition pending before the Calcutta High Court was subsequently transferred to the Central Administrative Tribunal, Calcutta Bench. The Tribunal by its order dated November 30, 1987 disposed of the writ petition. The Tribunal held that the order of transfer was not mala fide or unfair, and there was no ground for interfering with the transfer order. After recording that finding the Tribunal directed the appellants to pay all arrears of salary with allowances to the respondent with a further direction that no release order should be issued to the respondent unless all his emoluments are paid to him.

After hearing learned counsel for the parties we find that the Tribunal acted in excess of its jurisdiction in issuing impugned direction. The Tribunal recorded positive findings that the transfer order was legal and valid and it was not vitiated by any unfairness, or mala fide, thereupon it should have dismissed the writ petition. It had no

jurisdiction to issue further directions regarding the release order and the payment of emoluments. The Tribunal lost sight of the fact that the respondent had already been released from the Calcutta office w.e.f. 15.3. 1985, therefore, there was no question of issuing any fresh release order. We accordingly allow the appeal and set aside the impugned directions of the Tribunal. There will be no order as to costs.

P.S.S.

Appeal allowed.

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