

# Vijay Pratap Sharma vs Union Of India And Ors on 24 January, 2019

**Author: Vipin Sanghi**

**Bench: Vipin Sanghi, A. K. Chawla**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 728/2019 & C.M. No. 3222/2019  
VIJAY PRATAP SHARMA ..... Petitioner  
Through: Mr. A.P. Sharma, Adv.  
versus

UNION OF INDIA AND ORS. .... Respondent  
Through: Ms. Suparna Srivastava, CGSC with  
Ms. Sanjna Dua, Adv.

CORAM:  
HON'BLE MR. JUSTICE VIPIN SANGHI  
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% 24.01.2019

1. The petitioner has preferred the present writ petition to assail the order dated 31.07.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 4395/2017. The Tribunal has rejected the said Original Application wherein he had assailed his transfer to National Informatics Centre (NIC), NCT of Delhi Centre, Delhi vide order dated 27.05.2017.

2. Ever since his appointment as Scientist - B in National Informatics Centre in 1995, the petitioner has been posted in Delhi, and that too at a particular station. He was sought to be transferred earlier on 17.11.2014, and posted to the NIC Cell Department of Skill Development and Entrepreneurship. He assailed the same by preferring O.A. No. 4417/2014. The said O.A. was allowed on the ground that the steps contemplated under the transfer policy stipulated by the Ministry of Electronics were not followed. That order was assailed before this Court. The question of law arising in the said case - as to whether the Director General of NIC was competent to transfer, was left open to be decided by the Tribunal.

3. The petitioner by preferring O.A. No. 4395/2017, once again sought to urge that there was failure on the part of the respondent in following the procedure prescribed under the policy. The Tribunal rejected the said Original Application on the premise that the NIC had formulated its own transfer policy in compliance of the judgment of the Supreme Court. The Tribunal held that the petitioner could not point out any violation of the said transfer policy when the petitioner was sought to be

transferred vide order dated 27.05.2017. The Tribunal also takes note of the fact that the Director General of NIC has, in routine, been passing orders for transfer of officers under his authority.

4. The petitioner, it appears, is stubborn and does not wish to comply with the transfer orders and is again, before us, raising a challenge to his transfer. Pertinently, the transfer has been made from one office in Delhi to another office in the NCT of Delhi itself. In spite of that being the position, he is seeking to challenge the transfer.

5. It is not the petitioner's case that his service is not transferrable. No employee, who is serving in any capacity, in any position, which is transferrable, has a vested right to continue to occupy a particular post at a particular station, or office. It is well settled that the employer has the right to transfer the employee in the exigencies of service. The Supreme Court has gone so far to say that even if, there is some irregularity in the matter of transfer of an employee, the Court should not interfere with the same. Reference may be made to *Shilpi Bose (Mrs.) & Ors. v. State of Bihar & Ors.*, (1991) Supp.2 SCC 659.

6. When the petition was taken up yesterday for hearing, we had made it clear to Mr. M.K. Bhardwaj, Advocate that we found no merit in this petition. On his insistence to press the petition and consume the time of the Court, we had also informed him that on account of pressing a frivolous petition, the petitioner would be subjected to costs. Initially, Mr. Bhardwaj sought a pass over on the ground that he would take instructions from his client. On the second call, he sought an adjournment for today to report instructions.

7. Today, when the matter is called out, Mr. A.P. Sharma, Advocate has appeared in place of Mr. Bhardwaj. He states that he has now been engaged by the petitioner and he would file his vakalatnama. He seeks an adjournment on the ground that he has been recently engaged and he wishes to engage a senior counsel to argue the petition. He also wishes to place on record the additional documents.

8. We find this to be a sharp practice and a gross abuse of the process of the Court. Clearly, the attempt of the petitioner is to avoid the hearing of the petition and to prevent this court from passing its order. We denounce such practice. Accordingly, we dismiss this petition with costs of Rs. 1,00,000/- to be paid by the petitioner to Prime Minister's National Relief Fund within 2 weeks.

9. List the matter to report compliance on 07.02.2019.

10. In case, the costs are not paid, the petitioner shall personally remain present in Court on the next date.

VIPIN SANGHI, J A. K. CHAWLA, J JANUARY 24, 2019 N.Khanna