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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1505/2002

This the 27th day of February, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

N.K. Gupta
S/o Shri D.N. Gupta
R/o 9/859, R.K. Puram,
New Delhi.

...Applicant

(By Advocate: Sh. Naresh Kaushik)

Versus

1. Union of India
through Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
New Delhi.

2. Chairman, Central Water Commission
Govt. of India,
Sewa Bhawan
R.K. Puram,
New Delhi

...Respondents.

(By Advocate: Sh. S.M. Arif)

ORAL READING

Applicant in this OA has assailed an order of transfer vide which the applicant has been transferred from New Delhi to Patna. The main ground to assail this transfer order is that this is in violation of the transfer policy being followed by the respondents themselves.

2. According to the applicant the transfer policy prescribes that when transfers from one station to another station was effected then the persons with a longer stay has to be transferred first and since the persons with the longer stay is still available with the respondents so transfer order in question cannot be sustained.

3. As against this, learned counsel for respondents submits that since applicant himself has a longer stay in Delhi and for counting the stay at a particular station, the respondents



has also taken into consideration the earlier service rendered by the applicant in CPWD when the applicant was stationed at Delhi. Respondents also pleaded that the earlier service rendered by the applicant in CPWD has been counted in CWC thus allowing him all the benefits of service and this department accepted the pension liabilities and liabilities on account of leave earned by him in earlier department counting that service for pensionary benefits. Therefore, the stay of the applicant at Delhi while working in CPWD since 1969, that is to be treated as a continuous period for stay in Delhi and thus, the respondents pleaded that the period of stay in CPWD and period of service in CWC is a continuous stay in Delhi.

4. In reply to this, counsel for applicant submitted that the service period rendered by the applicant at CPWD is counted for pensionary benefits. Since he is not given the seniority by counting his past service, the respondents cannot count the period of past service which the applicant has rendered in the CPWD for the purpose of longer stay at Delhi. Counsel for applicant has also submitted that the appointment with the CWC is a direct appointment and applicant has also undergone the probation period and after his probation period is completed thereafter he has been confirmed in the department.

5. I have considered the rival contentions of the parties and gone through the transfer policy as reproduced by the respondents themselves in their counter reply. I find that the respondents in their transfer policy categorically provided for transferring those persons first who have a longer stay. The only question which requires consideration is whether the respondents could count the period of past service of the applicant for determining the longer stay or not. There is no dispute that the appointment of the



applicant to the present department was a fresh/direct appointment. The respondents' contention is that the earlier service rendered by the applicant in CPWD is counted in CWC for grant of benefit of pension and other retiral benefits but as a point of this counting of the said period for the purposes of pensionary benefits has been done in accordance with rules. But as per the transfer policy is concerned, the services rendered by the applicant in the previous department cannot be taken into consideration since the appointment of the CWC is a fresh and direct appointment of the applicant. Even otherwise the service rendered by the applicant at CPWD has not been counted for all practical purposes. Counsel for applicant has rightly pointed out that applicant has not been granted seniority in lieu of the service rendered by him in CPWD. The extracts of the transfer policy as reproduced by the respondents in the counter would also go to show that the transfer policy is quite exhaustive. Transfer policy has taken care of period spent on deputation from other organisation at that place/station which shall be included while counting the longest stay at that place/station. They have also taken care of the period spent on deputation/assignment/posting outside the country which will be treated as period spent at Delhi for counting the period of stay at Delhi but the transfer policy is silent about the past service rendered at Delhi to be counted for the purpose of transfer.

6. However, I am of the considered opinion that the past service rendered by the applicant in CPWD for the purpose of counting his total service at Delhi can not be taken into consideration for transferring him out of Delhi. Hence, I am of the considered opinion that the impugned transfer order is

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not in conformity with the transfer policy of the respondents and the same is liable to be quashed and I hereby quash & set aside the same. Accordingly, OA is allowed. No costs.


(KULDIP SINGH)
Member (J)

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