

Central Administrative Tribunal
Principal Bench

O.A.No.1597/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 12nd day of December, 2002

N.K.Yadav - UDC
Flyover Division - I
P.W.D. (GOD)
Masjid Moth
New Delhi.

... Applicant

(By Advocate: Sh. R.N.Singh)

Vs.

1. Union of India through
Chief Engineer
PWD Zone, 7th Floor
MSO Building, PHQ
New Delhi.

2. Project Manager
D.S. & C.M.
PWD 12th Floor, MSO Building
PHQ, I.P.Estate
New Delhi.

... Respondents

(By Advocate: Sh. Vijay Pandita)

O R D E R (Oral)

By Shri Shanker Raju, M(J):

In this OA applicant impugns transfer/posting order dated 16.5.2002 whereby applicant, who was working as UDC in Correspondence Branch, has been ordered to remain there. He prays for a direction to the respondents to transfer him in Accounts Branch in accordance with the CPWD Manual Chapter III Section 8 - Clause-21, which dealing with transfers.

2. Applicant states that as per the Rules, after every six months the posting are to be rotated. Applicant is unnecessarily being stagnated in Correspondence Branch and has been meted out differential treatment which is violative of Articles 14 and 16 of the Constitution of India.

3. On the other hand, respondents' counsel states that earlier applicant was involved in serious charges for which he was imposed a penalty while he was in Accounts Branch, an OA 2421/2000 was filed which was decided on 17.8.2001 whereby punishment order has been set aside and liberty was given to the respondents to resume the proceedings. As the proceedings are still pending and the allegations against the applicant are of such a nature which necessitates his non-posting to the same area, and moreover, posting/transfer cannot be claimed as a right.

4. I have carefully considered the rival contentions of the parties and perused the material on record. In my considered view as well, posting/transfer cannot be claimed as a matter of right. The only challenge which can be considered on judicial review is that the transfer/posting are founded on mala fides. Moreover, I find that applicant who was involved in an alleged misconduct, which involves over payment of an amount of Rs.5 lacks, and the matter was gone into by the CBI. As the disciplinary proceedings was set aside by the Tribunal on 17.8.2001 in OA 2421/00, however, liberty was given to the respondents to hold the proceedings which are stated to be continuing and have not made any progress.

5. In the light of the pendency of the proceedings and as the integrity of the applicant was in question while he was posted in Accounts Branch, he has not been exonerated fully from the charges, the

claim of the applicant for posting to Accounts Branch cannot be acceded to. I also find no mala fide on the part of the respondents not to transfer the applicant from Correspondence Branch to Accounts Branch.

6. However, as the disciplinary proceedings have been resumed, it should be completed, in accordance with the time limit laid down in the relevant rules of inquiry, as expeditiously as possible. OA is dismissed. No costs.

S. Raju

(Shanker Raju)
Member(J)

/rao/