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~~CENTRAL ADMINISTRATIVE TRIBUNAL~~
~~PRINCIPAL BENCH~~

~~O.A. NO. 1772/2002~~

New Delhi this the 11th day of July, 2002.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

D.K. Bhattacharya
D-7/9, Dilshad Colony
Delhi-110095.

..... Applicant

(By Shri G.K. Aggarwal, Advocate)

-versus-

1. Union of India thro' Secretary
Ministry of Urban Development &
Poverty Alleviation
Nirman Bhawan
New Delhi-110011.
 2. The Director General (Works)
Central Public Works Department
Nirman Bhawan
New Delhi-110011.
 3. The Superintending Engineer (Civil)
(Coord-Civil), CPWD
East Block-I, Level-VI
R.K. Puram
New Delhi-110022.
- ... Respondents

O R D E R (ORAL)

S.A.T. Rizvi:-

The applicant, a Junior Engineer (Civil) in the CPWD was transferred on medical ground/compassionate basis from Bhuji to Delhi on 30.4.2002 (Annexure A-2). Since this transfer had been made at his own request and on compassionate ground, he was required to meet the necessary expenses without payment of TA/DA etc. On reaching

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Delhi, he was first posted at Parliament Division-1 on 7.5.2002. Thereafter he was shifted to B-Division in Delhi itself on 4.7.2002. ~~From~~² from the said B-Division, the applicant was thereafter shifted on 6.7.2002 to Sub-Division-2^{of B-Division.} He joined in the aforesaid Sub-Division on 8.7.2002. On that very day i.e. on 8.7.2002 itself, orders transferring him back to Bhuj have been issued by way of a corrigendum (Annexure A/1).

2. Aggrieved by the aforesaid order dated 8.7.2002, the applicant has filed the present OA.

3. The learned counsel appearing on behalf of the applicant submits that this is a case of arbitrary exercise of authority in the matter of transfer inasmuch as the applicant has been transferred several times within a short span of a little more than two months. He also submits that having been transferred initially on applicant's own request from Bhuj to Delhi on medical ground, the respondents ought to have looked for a fresh medical opinion before sending ~~the~~² him back to Bhuj. The applicant's wife is under treatment at G.T.B. Hospital at Delhi and his two grown up daughters are studying in 9th and 11th classes also in Delhi. These facts should also have been considered by the respondent authority before sending him back to Bhuj.

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4. We have considered the submissions made by the learned counsel and find that the present case


cannot be treated to be a case in which transfers have been made several times over ⁱⁿ a short span of time. Shifting from one place to another in Delhi cannot be considered to be transfer in the sense in which grievances are generally made out. Moreover, Bhuj being a hard area posting, the applicant is entitled to keep his family at Delhi. On a perusal of the transfer orders, we also find that the matter has been considered by the Hard Case Committee supposedly set up in the respondents organisation to look into the cases of transfer made on compassionate ground. It is that committee which has considered the applicant's case and has found it necessary to send him back to Bhuj. Since the applicant is allowed to keep his family at Delhi on the ground of Bhuj being a hard area posting, the applicant's wife can remain under treatment at Delhi and his daughters can also pursue their studies at Delhi. The grounds advanced on behalf of the applicant are, therefore, found by us to be not tenable.

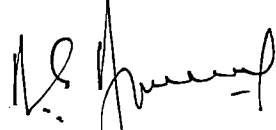
5. Transfer orders are administrative orders passed in the exigencies of public service. Such orders cannot be regarded as punishment orders. A transfer order can be successfully challenged only on the ground of mala fide or on the ground of the same being contrary to a rule. No such ground has

been advanced by the learned counsel in support of the prayer made in this OA.

6. In the light of the foregoing, the OA is found to be devoid of any merit. The same is dismissed summarily.

7. At this stage, the learned counsel appearing on behalf of the applicant makes a special submission with regard to the amount spent by the applicant in coming from Bhuj to Delhi on transfer and the amount he is likely to spend in going back from Delhi to Bhuj again. Applicant, according to the learned counsel, was transferred on compassionate ground and, therefore, TA/DA was not paid to him from Bhuj to Delhi. No TA/DA is likely to be paid to him while going back to Bhuj as the transfer order bringing him to Delhi has been cancelled and this is not a case of his transfer to Bhuj. The aforesaid amounts spent by the applicant, without any fault on his part, should, according to the learned counsel, be reimbursed to him. After consideration, we find that it will be open to the applicant to file a representation for the reimbursement of the aforesaid amount and the respondents will be within their rights to consider the same in accordance with the relevant rules and instructions.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

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