

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI

O.A. NO. 979/2002

NEW DELHI THIS 9TH DAY OF AUGUST 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Laxman Ram S/o Narain Lal,  
House No.30/3 Sector 1,  
Pushp Vihar,  
New Delhi-110017

.....Applicant

(By Shri S N Anand, Advocate)

VERSUS

1. Union of India through Secretary,  
Min. of Defence, South Block,  
New Delhi
2. The Director General,  
National Cadet Corps, West Block  
R K Puram, New Delhi-110066
3. The Administrative Officer,  
Directorate of National Cadet Corps,  
Old Secretariat Building,  
Delhi - 110054

.....Respondents

(By Shri Rajiv Bansal proxy for Sh. B K Agarwal,  
Advocate)

O R D E R (ORAL)

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri Laxman Ram, applicant in this OA, seeks to challenge order No. 6007/1/Estt dated 7.2.2002 passed by the National Cadet Corps (NCC) Directorate Delhi, attaching him to NCC Dte. Rajasthan, Jaipur.

2. Heard S/Shri S N Anand and Rajeev Bansal, learned counsel appearing respectively for the applicant and respondents.

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3. The applicant, who belongs to OBC Category is presently working as Daftry with respondent, with less than 2 years to retire on superannuation. Still he has been transferred by the impugned order from Delhi to Jaipur with the only purpose of harassing. The applicant who had filed a suit before Senior Civil Judge Delhi, on 10.1.2002 against the order has withdrawn the same for lack of jurisdiction. Shri Anand learned counsel points out that the order was illegal, arbitrary, malafide and punitive and against the directions contained in DoPT's OM No. A-14017/27/89-Estt (RR) dated 20.6.89, directing that holders of Gp 'C' and 'D' posts be posted nearer to their home town. Directions of the DoPT contained in OM No. 36026/3/85-Estt (SCT) dated 24.6.85 and OM No. 36011/25/89-Estt (SCT) dated 21.8.89 against discrimination towards members of the staff on grounds of their social origin, have also been violated by the respondents. Further the applicant who is to retire in February 2004 has less than 02 years to go in service. He has settled permanently in Delhi and does not have any interest in Rajasthan where he has been posted to. This transfer has effected him adversely and should therefore be interfere with, pleads Shri Anand. He has also referred to the decisions in OAs No. 128/95 [ Satya Narain Shukla Vs UOI ] before the Lucknow Bench, OA No. 666/96 [ S.A. Engineer, Addl. Divisional Commissioner Vs UOI ] before the Mumbai Bench, OA No. 241/98 [ U. Vijayan Vs UOI ] before the Chennai Bench and OA No. 1119/97 [ Dr. Vishwanath Vs UOI ] as well as OA No. 915/95 [ Chhattar Singh Vs UOI ] before the Principal Bench, all of which, according to him, support his case.

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4. In the reply filed on behalf of the respondents, duly endorsed during the oral submissions by Shri Rajeev Bansal, it is pointed out that the applicant had not exhausted departmental remedies before approaching the Tribunal. The transfer order has been issued purely on administrative ground and in public interest. The respondents were not aware that he backward community and the Organisation where he serves has All India transferability, the applicant cannot claim that he should be posted only to the place of his choice. Further the applicant had shown Alwar Rajasthan as his home town and therefore, a decision was taken to attach him near that place and hence his order. The order which was issued purely on administrative ground and in public interest cannot in any way describe as arbitrary, harsh or harassing in nature. The various decisions referred to by the applicant are relating to individual cases and the applicant cannot take any protection from the same. Further, it has been held time and again that the Courts and Tribunal should not interfere with matters of transfer which are within the clear domain of the executive. In view of the above, Shri Rajeev Bansal pleads that the OA merits dismissal.

5. I have considered the matter in depth. Without in any way differing from the submissions of the learned counsel for the respondents that the transfer are matters calling within the exclusive domain of the Executive, I have to record that the Courts and Tribunal can interfere matters of transfers, when they are against accepted guidelines and are malafide in nature. In this OA, the applicant, a Group "D" employee, with less than two years service to go before his superannuation, in February 2002,

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is found to have been attached / transferred from Delhi to Jaipur. The order of attachment does not disclose any reason for the transfer but in their pleadings, the respondents describe it as a transfer issued on administrative grounds and in public interest. One wonders what could be the public interest in transferring a low paid employee, who is nearing retirement from Delhi to Jaipur. Respondents have sought to explain that the individual hails from Alwar and hence the transfer to Jaipur. It is not disclosed anywhere that the applicant on account of Alwar being his home town, sought a posting to Jaipur or any other place in Rajasthan. On the other hand, he has pointed out that he is permanently settled in Delhi where from he does not like to shift, even after retirement. Nothing is also brought on record either in the pleadings or during the oral submissions to the effect that the applicant was either an undesirable person or one facing any proceedings. In the circumstances, I am to conclude that the transfer was an arbitrary and illegal action taken against a junior employee, without any justification. The order therefore has to be quashed and set aside.

6. OA in the circumstances succeeds and is accordingly allowed. Impugned order No. 6007/1/Estt dated 7.1.2002 is quashed and set aside. No costs.

(Govindan S. Tampi)  
Member (A)

Patwal/