CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1627/2002
OA NO. 1628/2002
OA NO. 1629/2002
OA NO. 1630/2002

This the 25th day of June, 2002

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

OA NO. 1627/2002

Shri A.K.Dixit
S/o R.K.Dixit
Working as Junior Engineer (Civil),
Military Engineering Services, MES
(Under Ministry of Defence), New Delhi
R/o MES 238, MES Colony, West End Road,
Near Sadar Police Station
Meerut Cantt.

OA NO. 1629/2002

Shri R.K.Rajvanshi
S/o Late Shri V.S.Rajvanshi
Working as Junior Engineer (Civil),
Military Engineering Services, MES
(Under Ministry of Defence), New Delhi
R/o P-5/1, AOT School, MES Colony,
Meerut Cantt.

Versus

1. Union of India
Through Secretary, Ministry of Defence
South Block,
New Delhi.

2. Engineer-in-Chief,
Army Head Quarters
New Delhi.

3. Chief Engineer
Central Command
Lucknow.

4. Commander Works Engineer
29, J. The Mall, Meerut Cantt.

OA NO. 1628/2002

Sh. R..D.Tayal
S/o Late Shri Ram Gopal Tayal
Working as Junior Engineer (Civil),
Military Engineering Services, MES
(Under Ministry of Defence), New Delhi
R/o 31/3, Church Street,
Meerut Cantt.

OA NO. 1630/2002

Shri Om Bir Singh
S/o Shri Omi Chand
Working as Junior Engineer (Civil),
Military Engineering Services, MES
(Under Ministry of Defence), New Delhi
R/o 161, New Sarvodaya Colony,
Meerut.

(By Advocate: Sh. M.K.Bhardwaj)

Versus

1. Union of India
Through Secretary, Ministry of Defence
South Block,
New Delhi.

2. Engineer-in-Chief,
Army Head Quarters
New Delhi.

3. Chief Engineer
Central Command
Lucknow.

4. Commander Works Engineer
29, J. The Mall, Meerut Cantt.

5. GE (S), The Mall,
Meerut Cantt.

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

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

By this common order I am deciding four OAs as stated above. Since the facts of all these OAs are common and principle of law applicable to these OAs is also common.

2. Facts in brief are that all the applicants who were working as Junior Engineers under the respondents at Meerut have been transferred vide impugned order dated 30.5.2002 out of Meerut. Applicants R.D.Tayal and Om Bir Singh have been transferred to Allahabad and A.K.Dixit and R.K.Rajvanshi have been transferred to Lucknow. All of them have challenged the transfer order on the grounds that their transfer order is not in consonance with the transfer policy of the department.

People having a longer stay at Meerut have been ignored whereas the applicants who have a shorter duration have been transferred outside Meerut and retaining the employees with longer stay is violative of the policy dated 31.8.1994 The another ground taken by the applicants is that this transfer order had beenissued in the garb of the punishment order because according to the respondents there were certain allegations against these applicants that there relations are working in the city of Meerut itself as a Contractor and they work for the department where these applicants are posted. The applicants have also made representation against their transfer which has not yet been decided by the department. It is also stated that the transfer order does not spell out the public interest/exigency for which applicants have been transferred before completion of three years as required under the transfer policy.

3. Respondents have filed a short reply. Respondents pleaded that this Tribunal has no territorial jurisdiction as the applicants are working under the Lucknow Division and the orders have been issued by the competent authority from Lucknow and therefore the matter falls under the territorial jurisdiction of Lucknow Bench of the Tribunal and the Principal Bench has no territorial jurisdiction of the same. However, it is denied that the applicants' transfer order has been passed for punishing them rather it is stated that the competent authority in the public interest of the State keeping in view all the relevant facts, rules, instructions and guidelines in mind have passed these transfer orders. It is stated that certain complaints were received which were given due consideration and remedial measure was adopted to post out applicants to prevent the menace as stay of

applicants at Meerut had become unsafe to the Govt./Organisation's interest as per policy where they were working so transfer order has been issued in terms of the instant policy of transfer.

4. I have heard the learned counsel for the parties and gone through the record. At the outset I may mention that it is not disputed that the representation of the applicants is still pending before appellate authority's for reconsideration of the transfer order as claimed by the applicants' in their representation.

5. Applicants have also highlighted that as per letter dated 18.5.2002 the transfer order has been issued on the basis of certain complaints which have been received from various sources by the respondents show that the applicants are being transferred on the basis of the complaints as a measure of punishment without verifying the facts whether any of the relation of the applicants have influenced in any process of tender/contract. Counsel for applicant also pointed out that the post of JE is such a lower status that they have no say in award of any contract or any acceptance of any tender. Rather it is their superior officers who are to accept the tenders and the contract and the role of the JE being a very insignificant role so they should not have been transferred on this ground.

6. On the contrary the learned counsel appearing for the respondents submitted that numerous complaints have been received to the fact that these JEs and their closed relations were working in close lien which had been effecting the tendering process, the quality of work and functional

efficiency of service vis-a-vis work culture. So in order to streamline the working these JEs have to be transferred whose relations are working in Meerut. Counsel for respondents have also relied upon various judgments in support of his case that in such like circumstances transfer order can be passed on the administrative grounds.

7. I have given a thoughtful consideration to the matter in issue and I have also gone through the judgments relied upon by both the parties but the fact remains that the representations of all these applicants are still pending before the appellate authority and the transfer order which is based on letter dated 18.5.2002 also shows that the department had taken an action to transfer almost all those JEs whose relations are working in the Meerut area which is affecting the tendering process, quality of work and functional efficiency of service vis-a-vis work culture. Though JEs have no influence as far acceptance of tender is concerned but quality of work and functional efficiency are such aspects where JEs are also associated.

8. Learned counsel for applicant have also pointed out that either there are no relations or if someone is working then may be a distant relations which would not effect the work of these JEs. This is such a subject that pending the decision of the representation I would not like to comment over the same and I feel that these OAs can be disposed of at this stage itself with the directions to the respondents to decide the representations of the applicants by passing a reasoned and speaking order within a stipulated period and for this purpose the OAs be treated as supplementary representations.

9. Accordingly, I direct that the respondents shall dispose of the representations of the applicants within a period of one month from the date of receipt of a copy of this order. But in the meanwhile the respondents shall not insist upon joining of duties the applicants at the transferred place. However, there would be no stay of operation of the impugned order and the applicants, if they so like, they may proceed on leave which the department shall grant to them as per Leave Rules and it will not be treated as disobedience of the transfer order or a misconduct for not joining at the transferred place till the time of disposal of their representations. OAs are accordingly disposed of.

(KULDIP SINGH)
Member (J)

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K. K. Sareen
(Private Secretary)
Central Administrative Tribunal
Faridkot House, New Delhi