

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1881 of 2002

New Delhi, this the 21st day of October, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL.)

Shri R.K. Yadav
S/o Shri S.B. Yadav
Presently working as Assistant Store Depot Manager,
At Medical Store Organisation,
R/o H-19/86, Sector-7, Rohini,
Delhi-110 085.

-APPLICANT

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India
Through Its Secretary,
Ministry of Health and Welfare,
Nirman Bhawan,
New Delhi.
2. Director General of Health Services,
Ministry of Health and Welfare,
Nirman Bhawan,
Delhi.
3. Dy. Director (Admn.),
Medical Store Organisation,
MSO (HQ), R.K. Puram,
New Delhi.

-RESPONDENTS

(By Advocate: Shri R.N. Singh)

O R D E R (ORAL)

The applicant in this OA impugns order dated 28.6.2002 vide which he has been transferred from New Delhi to Karnal.

2. The facts in brief are that the applicant is working as an Assistant Depot Manager, Government Medical Store Depot. He claims to have excellent service record.

3. He further claims that his wife is also working in Delhi under the Government of NCT of Delhi. He has also school going children who are in the mid of



academic session.

4. It is further submitted that this impugned order has been passed without showing any exigency or reasons but the applicant has been transferred on approval from DGHS from New Delhi to Karnal and since he has been facing disciplinary enquiry so he has been directed to be assigned a non-sensitive job vide Annexure A-1.

5. It is further stated that the respondents have further improved the transfer order by incorporating the word 'public interest' also.

6. The OA is being contested by the respondents. The respondents in their reply pleaded that the applicant was appointed as Assistant Depot Manager on 27.3.1992 and since then he is staying at New Delhi which is more than 10 years.

7. It is further stated that on the basis of various service conditions and guide-lines issued by the Government of India which contemplate that no one would remain in sensitive departments for more than 2 years at a time as such all the officers of these departments are liable to be transferred.

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8. It is further submitted that even while transferring the applicant his convenience has been kept in mind by the respondents and he has been transferred only to Karnal as this is the only office which is nearest to Delhi.

9. As regards the Government instructions for keeping husband and wife at one place is concerned, it is submitted that though the applicant has made a representation with regard to the same but since the applicant holds a transferable post and it has become necessary in public interest to transfer the applicant, so the applicant could not be kept at that place at which he was working and has been posted to Karnal. It is further submitted by the respondents that the transfer and posting is left to the wisdom of the administration, so it is the prerogative of the respondents to post the applicant at an appropriate place.

10. I have heard the learned counsel for the parties and gone through the records of the case.

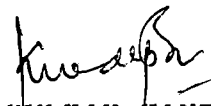
11. As regards the instructions of the Government for keeping both the spouses at one place are concerned, this does not give any right to a particular employee to be posted at any particular station. The instructions itself are only directory in nature and not mandatory in nature and as far as possible both the spouses should be kept in one place but does not give any right to applicant to insist upon the department to keep both the spouses at one place posted. If the administrative grounds or administrative exigencies require that one has to be posted out of town, then these instructions can be ignored.

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12. In this case since the applicant is posted at Delhi since his day of joining, i.e., from 1992 itself and his job is also transferable so the applicant for all the times cannot claim the benefit for keeping both the spouses at one place.

13. Though the applicant had alleged that the transfer order does not indicate that some disciplinary enquiry is pending against him and that is why he has been transferred. But when a direct question was put to the Counsel for the applicant that what are the facts leading to the mala fide action if any by the respondents towards the applicant, the counsel for the applicant was unable to satisfy the court. It may be pertinent to note that the applicant has not made any officer as a party who may be inimically disposed towards the applicant or who may be biased against the applicant and who is instrumental in the transfer of the applicant from Delhi to Karnal.

14. On the contrary the respondents have pleaded that the applicant had already made a representation before the transfer order was issued since he knew it well that he is likely to be transferred and his representation was kept in mind that is how applicant is given a posting nearer to Delhi so I find that the OA has no ground to interfere with and the same is dismissed. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

/Rakesh