

CENTRAL ADMINISTRATIVE TRIBUNAL - PRINCIPAL BENCH

Original Application No. 1129 of 2002

New Delhi, this the 18th day of August, 2002

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

Shri Udai Ram Singh
SSO-II, SQAE (A)
Delhi Cantt.-10.

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APPLICANT

(By Advocate: Shri Arun Bhardwaj for
Sh. Radheep Davnya
versus

1. Union of India
Through Secretary (DP&S),
Ministry of Defence,
South Block,
New Delhi-110 011.
2. The Director General Quality Assurance
Department of Defence Production & Supplies,
Ministry of Defence (DGQA), South Block,
PO DHQ, New Delhi-111.
3. The Director Quality Assurance (A)
Directorate of Quality Assurance (A),
Department of Defence Production & Supplies,
H Block, PO DHQ,
New Delhi-110 011.
4. Administrative Officer,
Senior Quality Assurance Estt. (Armaments),
Delhi Cantt.-10.

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RESPONDENTS

(By Advocate: Shri R.N. Singh)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (JUDG.)

The applicant has filed this OA impugning order dated 26.4.2002 passed by respondent No.4 rejecting the request of the applicant regarding the change of posting arbitrarily and without considering the conditions of the applicant.

2. The facts in brief are that the applicant had been transferred vide order dated 18.12.2001. He was transferred from Delhi Cantt. to Bhandara, a tribal area in Nagpur against the existing vacancy. The applicant

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challenged the same on the grounds of male fide and also on the ground that since it was in the mid of the academic session as such the applicant has prayed for quashing of the same. He had also filed an OA to that effect which was registered as OA 128/2002 and was disposed of on 15.1.2002 by directing the respondents that the applicant's transfer order is not cancelled but the same is kept in abeyance till 30.4.2002 when the academic session will be over. It appears that thereafter he had made some representation and vide order dated 26.4.2002, the request was turned down.

3. The applicant assailing the same had taken up the grounds that though initially the orders dated 18.12.2001 and then by 1.1.2002 was passed due to alleged exigencies of service when there was absolutely no exigency of service as claimed by the department. This was proved from the fact that the place to which the applicant stands transferred that is Bhandara, Nagpur did not even have vacancy in the rank of SSO-II and, therefore, if the applicant had gone to that place, there would not have been any place for the applicant to join duties and perform duties.

4. It is further stated that the respondents wanted to accommodate their own favourites by shifting the applicant who has been performing his duties sincerely and to the entire satisfaction of his seniors.

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5. It is also stated that the applicant has not been given appropriate joining time and he has a daughter which is about 11 years old and is a patient of Diabetic Mellitus for which she is taken frequently to RML Hospital for treatment. Besides that he has also pleaded for other family problems and has prayed for quashing of the transfer order.

6. The respondents who are contesting the OA in their short reply pleaded that the applicant belongs to Defence Quality Assurance Service under the Directorate General of Quality Assurance Organisation having an all India service liability and is presently working as a Senior Scientific Officer Grade-II (SSO-II) and his transfer order to Bhandara was issued in the exigencies of service, against an existing vacancy of SSO-II taking into account increase in the workload of the establishment and since the applicant had filed an OA, so the respondents were directed to hold the transfer till end of academic session. Therefore in compliance with the order, the transfer order was kept in abeyance.

7. Representation submitted by the applicant was also considered sympathetically, the decision of which was conveyed to the applicant.

8. It is further stated that as per the conditions of appointment the applicant is liable to be posted in any part of India and his transfer order was passed by the competent authority keeping in view the

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needs of the department and is thus in accordance with the norms adopted by the department for transfer of such like incumbents of the post.

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

10. The fact that earlier the applicant had filed an OA challenging the transfer order wherein besides the ground of academic session the applicant had also taken the ground of mala fides to seek the quashing of the transfer order but the grounds of mala fide did not find favour with the court and only on the ground that the transfer order was passed in the middle of the academic session the court had directed that the transfer order be kept in abeyance till 30.4.2002.

11. The applicant then did not at all challenged the order of transfer before the Tribunal and did not ask for quashing of the findings with regard to the observations of the court where the court observed that unless and until the transfer order issued in violation of the accepted guidelines or there is mala fide, the tribunal would not interfere. Even as on date in the fresh OA, the applicant is unable to establish that the transfer order is against the principles of accepted norms of transfer or the same has been issued in a mala fide way or the applicant has been transferred to ghandara merely because the applicant has not been given 2 months joining time, does not show that there is any mala fide. The applicant cannot take up same plea aegia. Even otherwise no mala fide is proved.



12. As far the post of SSO-II at Bhandara is concerned, the respondents had clearly stated that the workload at Bhandara has increased so this plea that there is no post of SSO-II available at Bhandara has no merits nor this plea established any mala fide on the part of the respondents posting the applicant at Bhandara. Thus I am of the considered opinion that neither there is any violation of any accepted norms nor there is any mala fide which is reflected from the transfer of the applicant to Bhandara which is challenged in the present OA.

13. No other contention has been raised before me.

14. In view of the above, OA has no merits and the same is dismissed. No costs.


(KULDEEP SINGH)

MEMBER (JUDL)

/Rakesh