

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 291/569/2019
with
MISC. APPLICATION NO. 291/884/2019**

Order reserved on 12.12.2019

DATE OF ORDER: 08.01.2020

CORAM

**HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER**

Bahadur Chand S/o Late Shri Hari Chand, aged 58 years, R/o 58/3, Nirman Vihar-I, Sector-2, Vidyadhar Nagar, Jaipur-302039 (Raj.). Presently working as Draftsman, Central Ground Water Board, Western Region, 6-A, Jhalana Doongari, Jaipur-302004. (Group 'C' post), Mob. 9829375516.

....Applicant

Mr. Anupam Agarwal, counsel for applicant.

VERSUS

1. The Union of India through the Secretary, Ministry of Jal Shakti, Department of Water Resources, River Development & Ganga Rejuvenation, Shram Shakti Bhawan, New Delhi – 110011.
2. The Chairman, Department of Water Resources, River Development & Ganga Rejuvenation, Central Ground Water Board, Bhujal Bhawan, NH-4, Faridabad-121001 (Haryana).
3. The Administrative Officer, Department of Water Resources, River Development & Ganga Rejuvenation, Central Ground Water Board, Bhujal Bhawan, NH-4, Faridabad-121001 (Haryana).
4. The Regional Director, Central Ground Water Board, Western Region, 6-A, Jhalana Doongari, Jaipur-302004 (Raj.).
5. Shri K.C. Naik, Chairman, Department of Water Resources, River Development & Ganga Rejuvenation, Central Ground Water Board, Bhujal Bhawan, NH-4, Faridabad-121001 (Haryana).

....Respondents

Mr. Anand Sharma, counsel for respondents.

ORDER

Per: Suresh Kumar Monga, Judicial Member

Aggrieved by an order dated 11th September, 2019 (Annexure A/1) vide which the applicant has been transferred from Jaipur

to Chandigarh, the present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985.

2. It is the contention of Shri Anupam Agarwal, learned counsel for the applicant that the applicant has been transferred from Jaipur to Chandigarh because of malice of the respondents. Learned counsel submitted that the applicant is due for retirement on 30th November, 2021 and had his transfer order not been issued in September, 2019 then he could not have been transferred till the date of his superannuation in view of Clause 6 (b) of the rotational transfer policy (RTP) (Annexure A/8) as the said clause stipulates that if the officer is due for superannuation within two years, he will be retained in the same office against an existing vacancy of the promotional post. Learned counsel further submitted that since a promotional post is available and if the applicant was to be allowed upto November, 2019, he could have been adjusted against that promotional post at Jaipur only. Advancing his arguments further Shri Anupam Agarwal submitted that as per Clause 12 (c) of the rotational transfer policy, the transfer orders can be issued between the months of February and March and the mid-term transfer vide order dated 11th September, 2019 has caused serious prejudice to applicant's right. Shri Anupam Agarwal further submitted that the applicant is suffering from some neurological disorder and he has been getting treatment at Jaipur.

3. Per contra, Shri Anand Sharma, learned Senior Central Government Standing Counsel submitted that the applicant has

been transferred from Jaipur to Chandigarh due to administrative exigencies. He has served at Jaipur for a long tenure. Right from his inception in service on 05.08.1985 upto 30.09.2019, he was never transferred from Jaipur. Shri Anand Sharma further submitted that now the applicant has been transferred as per the recommendations of RTP Committee along with 60 other officials to meet urgent functional requirements at Chandigarh. Learned counsel argued that transfer of an employee is an incident of service. The applicant has been transferred due to administrative exigencies and, therefore, the order dated 11th September, 2019 (Annexure A/1) cannot be interfered with. He further submitted that the applicant's representation dated 13.09.2019 (Annexure A/9) against the transfer order is still pending with the respondents. The respondents could not take the decision over the said representation because without waiting for the outcome of the said representation, he opted to prefer the present Original Application.

4. We have considered the rival contentions of learned counsels for the parties and perused the record.

5. We do not find any substance in the argument of Shri Anupam Agarwal, learned counsel for the applicant that the order of transfer has been issued because of malice of the respondents. Admittedly, a period of more than 02 years was left in applicant's retirement at the time of issuance of the impugned order and, therefore, he cannot be allowed to invoke the provisions of Clause 6 (b) of the rotational transfer policy (Annexure A/8) wherein it has been stipulated that if the officer is due for superannuation within two years, he will be retained in

the same office against an existing vacancy of the promotional post.

6. We also do not find any merit in the argument of learned counsel for the applicant that the applicant is suffering from some neurological disorder and, therefore, the respondents ought not to have transferred him from Jaipur to Chandigarh, as equally good medical facilities are available in the Union Territory of Chandigarh.

7. Admittedly, the applicant has been serving at Jaipur for the last more than 34 years. Now he has been transferred to Chandigarh on the recommendations of RTP Committee along with 60 other officials to meet urgent functional requirements. It has been repeatedly held by the Hon'ble Supreme Court through various judicial pronouncements that the Courts and Tribunals should refrain themselves from interfering with the orders of transfers issued by an employer due to administrative exigencies. Accordingly, we are not inclined to interfere with the impugned order vide which the applicant has been transferred from Jaipur to Chandigarh.

8. The record reveals that before filing the present Original Application, the applicant had submitted a representation dated 13.09.2019 (Annexure A/9) and the same is still pending consideration before the respondents. Looking towards the fact that the said representation is pending consideration with the respondents, we deem it appropriate to dispose of the present Original Application with a direction to the respondents to take a decision over the same and pass a reasoned and speaking order

after taking into consideration all the facts and circumstances narrated therein.

9. Accordingly, the present Original Application is disposed of with a direction to the respondents to take a decision over the applicant's representation dated 13.09.2019 (Annexure A/9) and pass a reasoned and speaking order after taking into consideration all the facts and circumstances narrated therein. Before taking such a decision, the applicant shall also be afforded an opportunity of hearing. The whole exercise shall be undertaken within a period of one month from the date of receipt of a certified copy of this order. However, there shall be no order as to costs.

10. Since the Original Application itself has been disposed of, therefore, Misc. Application No. 884/2019 for interim direction has become infructuous and the same is also disposed of accordingly.

(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER

(SURESH KUMAR MONGA)
JUDICIAL MEMBER

Kumawat