



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 237/2020

This the 17th day of February, 2020

**Hon'ble Mr. Ashish Kalia, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)**

E. Virendra Pandey (age about 58 years) (Group-A)
Executive Engineer (Electrical) Mob.9412252019
S/o Sh. Vishwanath Pandey
R/o AD-52, Avantika,
Ghaziabad, U.P.

...Applicant

(By Advocate: Sh. Lokesh Kumar Sharma)

VERSUS

1. Union of India
Through the Secretary
Ministry of Housing and Urban Affairs
Nirman Bhawan, Maulana Azad Road,
New Delhi-110011
2. Central Public Works Department (CPWD)
Through The Director General
Nirman Bhawan, Maulana Azad Road,
New Delhi-110011.
3. Shri Prabhakar Singh
The Director General
Central Public Works Department (CPWD)
Nirman Bhawan, Maulana Azad Road,
New Delhi-110011.

...Respondents

(By Advocate: Sh. Gyanendra Singh)

ORDER (Oral)**Hon'ble Mr. Ashish Kalia, Member (J):**

The applicant is working with the respondents as Executive Engineer (Electrical) and at the verge of retirement, he has re-approached this Tribunal by filing the present OA.

2. Earlier, he also filed OA No. 421/2019, which was decided by the Tribunal on 08.02.2019 whereby the decision in paras 8, 9 and 10, reads as under:-

“8. Learned counsel for applicant states that the applicant is due to retire within two years and four months from now. In other words, he wants the stay of the applicant at a place of his choice, at the last leg of his service.

9. We are of the view that a request in this behalf can be made to the respondents and the same can be acceded to, as soon as the applicant completes six months of service at the present station.

10. We, therefore, dispose of this OA, refusing to interfere with the transfer order, but directing that the request of the applicant to post him at a place of his choice, in the last leg of his service, shall be considered before he completes six months of his service in Purvanchal Division.”

3. The applicant's main contention is that he is in last leg of his service and he could be considered for choice station posting as Government of India guidelines and prayed for quashing of the impugned order dated 18.12.2019. This Tribunal has categorically observed that the applicant may complete



his six months' tenure and thereafter, he may be considered by the respondents for the choice station posting.

4. Learned counsel for the respondents has drawn our attention to the policy of the respondents. There are several other similarly situated persons already appointed to Delhi and for that reason they are not able to consider the case of the applicant. In the short counter reply filed by the respondents, they relied upon the judgement of Hon'ble Apex Court in case of **Shilpi Bose vs. State of Bihar**, AIR 1991 SC 532, whereby the Hon'ble Apex Court has held that:-

"4. In our opinion, the Courts should not interfere with a transfer Order which are made in public interest and for administrative reasons unless the transfer Orders are made in violation of any mandatory statutory Rule or on the ground of malafide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer Orders issued by the competent authority do not violate any of his legal rights. Even if a transfer Order is passed in violation of executive instructions or Orders, the Courts ordinarily should not interfere with the Order instead affected party should approach the higher authorities in the Department."

Thereafter, they also relied upon another similar judgement of Hon'ble Apex Court in case of **National Hydro-Electric Power Corporation Ltd. Vs. Sri**

Bhagwan & Anr.; AIR 2001 SC 3309, the Hon'ble

Apex Court held that:-



“...It is by now well-settled and often reiterated by this Court that no Government servant or employee of public Undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of malafide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals cannot interfere with such orders as a matter of routine, as though they are the Appellate Authorities substituting their own decision for that of the Management, as against such orders passed in the interest of administrative exigencies of the service concerned....”

5. Learned counsel for the respondents tried to impress this Tribunal that if the applicant's case is considered, several others may also approach this Tribunal.

6. After hearing the parties at length and appreciating the legal position, we are of this view that since the applicant is at the verge of his retirement, as per the Government of India policy of last leg of service, the employee may be considered for his choice posting as the applicant has already rendered service for 2.5 decades with the respondents, inclusive some



period in Delhi. This Tribunal has observed while deciding the earlier case of the applicant as under:-

“10. We, therefore, dispose of this OA, refusing to interfere with the transfer order, but directing that the request of the applicant to post him at a place of his choice, in the last leg of his service, shall be considered before he completes six months of his service in Purvanchal Division.”

7. After considering the rival condition, there is no force with the argument that similarly situated persons are seeking transfer to Delhi, each and every case has its own merits. We are of the strong opinion that the respondents shall consider the representation of the applicant for transfer and posting as per the station of his choice in terms of Government of India guidelines, the employee should be given choice posting during his last leg of service and pass a reasoned and speaking order within a period of one month and if possible, consider the applicant's transfer and posting in Delhi/NCR.

8. The OA stands disposed of with these observations. No order as to costs.

(Mohd. Jamshed)
Member (A)

(Ashish Kalia)
Member (J)

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