

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1856/2001

New Delhi, this 12th day of February, 2002

Hon'ble Smt. Lakshmi Swaminathan, VC(J)
Hon'ble Shri M.P. Singh, Member(A)

Uday Singh
I-1829, Jahangir Puri
Delhi-33

.. Applicant

(By Mrs. Rani Chhabra, with Ms. Meenakshi, Advocates)

versus

1. Government of India,
Through Ministry of Home Affairs
Intelligence Bureau
North Block, New Delhi
2. Director, Intelligence Bureau
Ministry of Home Affairs
North Block, New Delhi
3. Joint Director,
Intelligence Bureau(Est)
Ministry of Home Affairs
North Block, New Delhi
4. Assistant Director (Est)
Intelligence Bureau
Ministry of Home Affairs
North Block, New Delhi

.. Respondents

(By Shri S.M. Arif, Advocate)

ORDER(oral)

By Smt. Lakshmi Swaminathan, Vice-Chairman(J)

In this application, the applicant has challenged the order issued by the respondents dated 24.2.2001 transferring him from New Delhi to Raipur. He has also challenged the order dated 16.5.2001 issued by Respondent No.3 rejecting his request for cancellation of the transfer order, which he states is a non-speaking order, and further order dated 4.7.2001 refusing to grant him personal audience or darbar ^{by} the Director of IB to apprise him of the difficulties faced by the applicant due to the aforesaid transfer order. According to the applicant, these orders are illegal, arbitrary, unjustified and contrary to the principles of natural justice and he has prayed that these orders may be quashed and set aside.



2. We have heard Mrs. Rani Chhabra, learned counsel for the applicant. She has submitted that since the applicant was appointed as a Constable with the respondents on 25.7.68, he has been transferred on two different occasions namely one to Dibrugarh, State of Assam in 1986-1980 and to the State of Jammu & Kashmir in 1985-1990. Admittedly, from 1990 the applicant has remained at the headquarters in New Delhi. She has submitted that the earlier order dated 22.7.99 transferring the applicant to Amritsar in the State of Punjab has been cancelled after due consideration of his request for cancellation of the order. Learned counsel has contended that the applicant's mother is blind and he has to look after two daughters of marriageable age and hence, it was difficult for the applicant to carry out the transfer order in question issued on 24.2.2001. Applicant has made ^a representation to the respondents against this order on 14.3.2001. It is noted that atleast one of the two daughters has already been married in May, 2001. In the circumstances, the learned counsel has prayed that impugned transfer order and the other connected orders issued by the respondents should be quashed and set aside. She has also emphasised that the applicant would be 55 years on 1.4.2002 and the respondents themselves have a policy that a person of 55 years would not normally be transferred against his request.

3. We have seen the reply filed by the respondents and heard Shri S.M.Arif, learned counsel for the respondents. He has submitted that the representation made by the applicant against the aforesaid transfer order has been

13.

(A)

duly considered by the respondents. He has also pointed out that the transfer order in question not only deals with the transfer of the applicant but 91 other officers who are being transferred from their places of posting to various other places in the country. He has, therefore, submitted that there is no question of singling out the applicant. Apart from the fact that the applicant has an all-India transfer liability, he has emphasised that out of 33 years of service of the applicant, he has been in Delhi for 24 years and was posted out to Dibrugarh and J&K State for the remaining period of about 9 years. Therefore, he has submitted that there is no illegality or arbitrariness in the transfer order which has been passed by the respondents in public interest, taking into account the administrative exigencies. One of the grounds he has submitted is that there was a need to post a suitable officer at Raipur on urgent basis in view of the formation of ^{the} new State of Chattisgarh and it was for the respondents to take an appropriate decision in the matter, which they have done in transferring the applicant to that place. In the circumstances the respondents have submitted that no rules regarding transfer have been violated by them and have prayed that the ad interim stay order, which has been continuing from 26.7.2001, may be vacated and the OA may be dismissed.

4. We have considered the submissions made by the learned counsel for the parties and the relevant documents on record.

B/

(C)

5. It is not disputed that the applicant has transfer liability throughout the country and a transfer from one place to another is an incidence of service. In the present case, by the impugned transfer order dated 24.2.2001, a total of 92 officers, including the applicant, have been transferred to various places. It is further relevant to note that a number of other officers have also been transferred to Raipur and the list of persons transferred also includes lady officers, for example, at Sl.No.85, who has been transferred from Hqrs. to Bhopal. The fact that the applicant has remained in Delhi for more than half the period of his service does not entitle him to continue in Hqrs. We have also considered the fact that the applicant will be 55 years only on 1.4.2002. Therefore, at the time when the impugned transfer order was issued, he was less than 54 years and on this ground we see no reason to set aside the transfer order. Respondents have also stated that the transfer order has been made in public interest, including the transfer of the applicant to Raipur in the newly created State of Chattisgarh. In the circumstances of the case, nothing has been shown by the applicant to establish that the impugned transfer order has been passed in violation of any statutory provisions or with malafide intention (see Union of India Vs. S.L.Abbas, 1993(2) SLR 585 (SC)).

6. The representation made by the applicant has also been duly considered by the respondents and in the facts and circumstances of the case, we find neither the

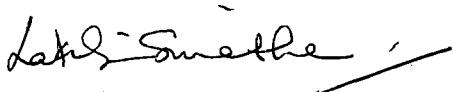
(A)
S

rejection order is illegal or arbitrary nor against the principles of natural justice, as contended by the applicant's counsel.

7. An argument was advanced by the learned counsel for the applicant that there are other persons who have longer stay in Hqrs. at Delhi, who should have been transferred out rather than the applicant. It is a settled law that the court/Tribunal cannot interfere with such matters because it is within the discretion and competence of the competent authority to take a decision as to who is to be transferred and where, taking into account the administrative exigencies. No grounds for quashing the transfer order has been made out by the applicant, i.e. grounds of malafide or violation of any statutory rules/guidelines for transfer or the principles of natural justice to warrant any interference in the matter. In this regard, the judgement of Hon'ble Supreme Court in the case of N.K.Singh Vs. UOI & Ors. 1994(28)ATC 246 (SC) is relevnt.

8. In the result, for the reasons given above, we find no justification to interfere in this matter and there is no merit in this application. The DA accordingly fails and is dismissed and the interim order dated 26.7.2001 stands vacated. No order as to costs.


(M.P. Singh)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman(J)