

Central Administrative Tribunal, Principal Bench

Original Application No.201 of 2001

New Delhi, this the 2nd day of February, 2001

Hon'ble Mr.Kulidip Singh,Member (J)

T.L.Gupta
S/o Shri Mangat Rai
A-133,Vikaspuri,
New Delhi

- Applicant

(By Advocate - Dr.S.P.Sharma)

Versus

1.Union of India
(Through Secretary)
Ministry of Urban Development
Nirman Bhawan,
New Delhi

2.The Director General Works
C.P.W.D.,Nirman Bhawan,
New Delhi

3.The Engineer CPWD
Ajmer Central Division,
Ajmer

- Respondents

(By Advocate: Shri R.N.Singh)

O R D E R (ORAL)

By Hon'ble Mr.Kulidip Singh,Member(J)

Applicant in this OA is aggrieved of an order of transfer dated 19.12.2000 whereby he has been transferred from Kota to New Delhi. The main ground to challenge the impugned transfer order is that it has been issued in the midst of the academic session and due to this untimely transfer, the study of applicant's children has been put in peril and it will ruin their career, which will have impact on their future life. Applicant has prayed that his transfer order be deferred till such time it enables his children to complete their studies and he is able to wind up his establishment at Kota.

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2. When the O.A. was filed, the applicant had prayed for an interim order and this Tribunal vide its order dated 24.1.2001, had stayed the operation of the impugned transfer order till 2.2.2001. By 2.2.2001, respondents have not filed any reply, however, Shri R.N. Singh, learned counsel appeared on behalf of respondents and vehemently opposed the continuation of the interim order.

3. I have heard learned counsel for the parties and gone through the records.

4. Learned counsel for the applicant submitted that applicant has no objection to obey the order of transfer. He simply wants that the order of transfer should be deferred for a period of about 2-3 months so that his children who are studying at Kota, may complete their academic session by then and thereafter, the applicant shall willingly join at Delhi to which station he has been transferred.

5. Shri R.N. Singh, learned counsel for the respondents submitted that as per the orders of transfer, Shri Hari Om Agarwal is to take charge from the applicant. Shri Hari Om Aggarwal who was earlier posted at Jaipur, has already been relieved from Jaipur office on 9.1.2001 and he has submitted his joining report also at Kota on 22.1.2001. Therefore, it is difficult for the respondents to retain two officers of the same rank at one Station against one post as it will unnecessarily create financial

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implications. Learned counsel prayed that interim order should be immediately vacated. He also referred to a judgement reported in AIR 1991 SC 532, Mrs. Shilpi Bose and ors. vs. State of Bihar and ors. wherein the Hon'ble Supreme Court observed that "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 mala fide. 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." The Hon'ble Supreme Court further observed that "transfer orders issued by the competent authority do not violate any legal rights of the applicant."

6. In reply to the arguments of Shri R.N. Singh, learned counsel for the applicant submitted that there are general instructions of the Government of India that the transfer order should not be normally effected during the currency of academic session unless the administrative exigencies so require.

7. After hearing learned counsel for the parties, I am of the opinion that this OA can be disposed of at the admission stage itself because the applicant is simply seeking deferment of transfer order for some time on the ground that his one daughter is to appear in her B.A. final examination in April, 2001 and his son who is the youngest amongst

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his children, is studying in Class-VI at Kota. Since the order has been passed during academic session and children of applicant will definitely suffer in their studies if transfer is affected at this stage hence, I find that the difficulties expressed by applicant are quite genuine. Impugned transfer order in question also do not show that applicant has been transferred in any administrative exigencies.

3. Under the circumstances, I allow the OJ and direct the respondents that transfer order dated 19.12.2000 so far as it relates to the applicant, shall not be effected till 30.4.2001. Thereafter, the applicant shall immediately join at Delhi on 1.5.2001. No orders as to costs.


(Kuldip Singh)
Member(J)

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