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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2735/2001

New Delhi, this the ¹⁷... day of October, 2001

HON'BLE MR. S.A.T. RIZVI, MEMBER (J)

Chander Ram
S/o Late Satya Narayan
R/o 1002, Lodhi Road Complex,
New Delhi Applicant
(By Advocate : Shri B.B. Raval)

Versus

Union of India

1. Through Secretary,
Cabinet Secretariat,
Annexure-7, Bikaner House,
Shahjahan Road, New Delhi
2. Sri Amar Bhushan,
Addl. Secretary (Pers)
Cabinet Secretariat,
Annexure-7, Bikaner House,
Shahjahan Road, New Delhi
3. Under Secretary (Pers.IV)
Govt. of India, Annexure-7,
Cabinet House, Shahjahan Road,
New Delhi

.... Respondents

(By Advocate : None)

O R D E R

By their Memorandum dated 28th September, 2001, the respondent-authority has once again rejected the applicant's representation against his transfer from Delhi to Shillong. Hence this OA.

2. According to the learned counsel, this is the third round of litigation coming up before this Tribunal in this very case. Earlier the applicant was transferred on 27.1.2000 when he came up before this Tribunal in OA No.1072/2000. The same was decided on 21.12.2000 in the following terms.

"4. The Govt. officials are transferred by Administrative orders and the same cannot be questioned unless malafide is established or else orders are found to suffer from the vice of arbitrariness. Such orders can also be impugned on the ground of discrimination. Beyond this, it would not be proper for the Tribunal to go into the merits or de-merits of a transfer order. In the circumstances placed before me by the learned counsel on either side, I find that it is not possible to contend that the transfer orders have been made for malafide reasons or are arbitrarily passed or else that the applicant has been discriminated against in the matter. The learned counsel for the respondents has made a fair offer which is to the effect that the applicant could be allowed, on account of his children impending examination in March, 2001, to stay on in Delhi till 31.5.2001 on the condition that thereafter he will be liable to be transferred to any place in the discretion of the respondents. The learned counsel for the applicant agrees to the same and wants that a fresh transfer order should be passed after 31.5.2001 cancelling the present order dated 27.1.2000." (emphasis supplied)

3. In compliance of the aforesaid order of this Tribunal, the respondents have issued transfer order dated 1.6.2001 ~ now impugned in the present OA. Aggrieved by this latest transfer order, the applicant came up before this Tribunal through OA No. 1728/2001. This OA was decided on 20th July, 2001. The said OA was dismissed in limine. The Tribunal had occasion, while passing the aforesaid order dated 20 July, 2001 to observe as follows.

"The terms of order dated 21.12.2000 (Annexure A-4) will act as constructive res judicata in the matter of transfer of the applicant".

4. Aggrieved by the aforesaid order of this Tribunal, the applicant went up before Delhi High Court by filing CWP No. 4619/2001, which was disposed of by that Court on 1.8.2001 by providing as under.)

"Petitioner may make a representation to competent authority with relevant medical documents within one week and seek reconsideration of his transfer on health grounds. The Authority concerned shall examine his plea and pass appropriate orders uninfluenced by anything said or held in Tribunal order."

5. Before providing as above, the Delhi High Court had in their order of 1.8.2001 made the following observation.

"As it is, we find nothing wrong in Tribunal order. Nor do we find any scope to interfere on any additional ground.

6. At this stage, the learned counsel for the petitioner submitted some additional documents to urge that the petitioner was medically unfit to be posted to Shillong. If that be so, it is again for petitioner to seek reconsideration from the competent authority."

7. In follow-up of the aforesaid order passed by the Delhi High Court, the applicant filed a fresh representation on 17.9.2001. I find that the same has been duly considered by the respondent-authority at the time of passing orders vide Memorandum dated 28.9.2001. This is what the respondent-authority has to say in regard to the medical problem relating to the applicant.

"Any medical problem of depression/B.P. which the official may be having, may be put forth by Shri Chander Ram before the Commissioner, SB, Shillong who can consider accommodating Shri Chander Ram in a place where proper medical facilities are available, if so requested and if he deems fit."

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Thus, the orders of the Delhi High Court have also been complied with, in my view, properly and adequately by the respondents.

8. For the reasons brought out above, I find absolutely no force in the present OA, which is dismissed summarily at this very stage.



(S.A.T. RIZVI)
MEMBER (A)

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