

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A. NO.3131/2001

This the 14th day of July. 2003

HON'BLE SHRI V.K.MAJOTRA. MEMBER (A)

Balinder Singh Anand S/O G.S.Anand.
R/O Sector-7. H.No.521.
R.K.Puram. New Delhi
presently working as Cipher Operator
at Directorate of Co-ordination Police Wireless.
Block No.9. C.G.O.Complex.
Lodi Road. New Delhi-110003. ... Applicant

(By Ms. Harvinder Oberoi proxy for Shri Vikas Dutta.
Advocate)

-versus-

1. Union of India through
Ministry of Home Affairs through
Director. Police Telecommunications.
Directorate of Co-Ordination
(Police Wireless).
Block No.9. C.G.O.Complex.
Lodi Road. New Delhi-110003.
2. Assistant Director (Cipher).
Directorate of Co-ordination Police Wireless.
Block No.9. C.G.O.Complex.
Lodi Road. New Delhi-110003.
3. Shri Sohan Lal.
Deputy Director (Cipher).
Directorate of Co-ordination Police Wireless.
Block No.9. C.G.O.Complex.
Lodi Road. New Delhi-110003. ... Respondents

(By Mrs. Avinash Kaur. Advocate)

O R D E R . (ORAL)

Applicant has challenged Annexure A-1 dated 21.8.2001 whereby he has been transferred from Delhi to Kohima. Applicant had moved a representation against the aforesaid transfer order but the same was rejected and a formal order of transfer was issued on 23.8.2001. Applicant had also filed OA-2220/2001 which was disposed of vide Annexure A-4 dated 30.8.2001 directing the

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respondents to consider applicant's representation dated 23.8.2001 taking into consideration the transfer policy and to pass a speaking and reasoned order within a period of two months. This representation of the applicant dated 23.8.2001 was rejected by respondents vide Annexure A-3 dated 1.11.2001.

2. Learned counsel has raised following contentions in support of applicant's claim:-

- i) Applicant's transfer is in violation of transfer policy which lays down that principle of station seniority and 'first come first go' should be followed. Respondents have transferred the applicant while 9 persons senior to him at the station have not been transferred:
- ii) Applicant had been posted at Jammu in March 1998 and was brought to Delhi in February 2000 when he had not completed even two years. Jammu is a hard posting and is stated to be at par with a posting to North East Region in certain respects such as retention of general pool accommodation at the last place of posting:
- iii) Respondents have irrationally stated that applicant had stayed for about two years at Jammu. out of which he had availed of leave about six months. Respondents could not have taken any objection to applicant's availing himself of leave to his credit.



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iv) Respondents had not transferred the applicant from Jammu to Delhi on his request but they had transferred him in public interest".

3. On the other hand, learned counsel of respondents stated that applicant has concealed and suppressed the material facts. He was charge sheeted on the charge of mishandling of classified cipher document for which in 1984 he was imposed a penalty of 'Censure' (Annexure R-1). According to respondents, the transfers are carried out on two parameters, i.e., station seniority and 'first come first go' basis but the transfer policy also states that the staff must serve at least once in any of the Inter State Police Wireless Stations in North East Region and once in one of the non-popular stations namely, Panaji, Gangtok, Bhubaneswar etc. According to respondents, applicant belongs to Delhi, he had been sent only three times out of Delhi. In Delhi, he has served for a term of more than 13 years out of a span of 20 years. He has served only two out stations, i.e., Bombay on initial posting and Jammu. He was transferred to Aizawl in North East Region on 1.4.1987 then to Imphal in North East Region on 24.4.1995. These transfer orders were changed/deferred on the request of the applicant, meaning thereby that the applicant has not been posted even once to North East Region in terms of the policy of the respondents...

4. Although applicant has served a term in Jammu which is a non-popular station, he has never served a term in the North East Region. Earlier when he was

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transferred to North East Region twice over. orders were cancelled/deferred on applicant's request.

5. So far as applicant's contention that respondents should not take any objection to his leave while counting his term at Jammu as a non-popular station. his contention is acceptable. Respondents cannot be allowed to take this exception when they had themselves granted leave to the applicant at Jammu. Applicant has not denied that he has not served a term in North East Region as required under the policy. As regards applicant's objection that 9 persons senior to him have not been posted out of Delhi. Learned counsel of respondents has stated that Smt. Anju Dogra and Smt. Alisha Kanojia were transferred to Shimla and have joined there. Similarly. Smt. Savita Kohli on her transfer to Bhopal had joined there. Shri V.K. Tripathi has already served a term in North East Region.

6. The contentions of respondents in this regard have not been controverted on behalf of applicant. therefore. it cannot be said that the criterion of station seniority has been violated by respondents in transferring applicant to North-East region. Furthermore. the transfer policy does not envisage that station seniority is the criterion for transfer to North-East region. It has also not been denied on behalf of applicant that his earlier transfers to North-East region in 1987 and 1995 were cancelled/deferred on the request of applicant himself. No doubt applicant has served a tenure at Jammu which is described as hard



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posting. but he has never served in the North-East region which is obligatory under the policy. From the facts of the case. it is apparent that he is bent upon stalling his transfer to North-East region on one pretext or the other. Courts cannot put a stamp of their approval on such a recalcitrant attitude.

7. Having regard to the totality of the facts and circumstances in the case. I do not find any infirmity in the impugned order. The OA must fail. therefore. Accordingly. it is dismissed. however. without any order as to costs.

V. K. Majotra

(V. K. Majotra)
Member (A)

/cc/as/