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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2486/1999
M.A. NO.2579/1999

New Delhi this the 1st day of December, 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHAstry, MEMBER(A)

Dr. V.P.Bansal S/O H.C.Agarwal,
Additional Director General
Health Services,
R/O C-II 26, Tilak Marg,
New Delhi.

...Applicant

(By Advocate Shri B.P.Singh)

-Versus-

1. Union of India through
Secretary, Ministry of Health
and Family Welfare, Nirman Bhawan,
New Delhi.

2. Dr. S.P.Agarwal,
Director General Health Services,
Nirman Bhawan,
New Delhi.

...Respondents

O R D E R (ORAL)

Justice Ashok Agarwal:

M.A. No.2579/1999 for preponing the date of
hearing of the present O.A. No.2486/1999 is allowed.

2. An order of transfer issued on 10th
November, 1998 transferring the applicant from the
post of Director, Central Institute of Orthopaedics,
Safdarjung Hospital, New Delhi to the post of
Director, All India Institute of Physical Medicine and
Rehabilitation, Mumbai is impugned in the present O.A.

3. It has, inter alia, been sought to be
contended on behalf of the applicant that the impugned
order of transfer posts the applicant from a higher

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rank to a lower rank and, therefore, the same is punitive and in violation of Article 311(2) of the Constitution. The argument is based on an earlier posting of the applicant as Additional Director General, Health Services. By an earlier order of transfer issued on 24th October, 1997 the applicant was transferred from the post of Additional Director General, Health Services to the post of Director, Central Institute of Orthopaedics, Safdarjung Hospital, New Delhi. Aforesaid order of transfer dated 24th October, 1997 was impugned by the applicant by filing in this Tribunal O.A. No.2602/1997. By a judgment and order passed in the aforesaid O.A. on 26th May, 1998, it has, inter alia, been held that the aforesaid transfer order was not from a higher rank to a lower rank and accordingly no question of violation of Article 311(2) of the Constitution arises.

Aforesaid O.A. No.2602/1997 was accordingly dismissed. Applicant, in the meanwhile, had assumed charge of the post of Director, Central Institute of Orthopaedics, Safdarjung Hospital to which he was transferred by the order issued on 24th October, 1997. The present order of transfer has now been passed on 10th November, 1998 which is impugned in the present O.A. As far as the present order of transfer is concerned, the same transfers the applicant from the post of a Director in Safdarjung Hospital ^{in Delhi} to the post of a Director in a Mumbai hospital. The said transfer, therefore, cannot be impugned on the ground that the transfer is from a higher rank to a lower rank. As far as the order of transfer dated 24th October, 1997 is concerned, the same has been

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maintained by the Tribunal after giving a finding that the transfer was not a transfer from a higher rank to a lower rank. The said decision is binding on this Tribunal.

4. If one has regard to the aforesaid facts, we find that the order of transfer dated 10th November, 1998 which is impugned in the present O.A. cannot be successfully assailed. The present O.A. is accordingly summarily dismissed.



(Ashok Agarwal)
Chairman



(Shanta Shastri)
Member (A)

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