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IN THE CENTRAL ADMINISTRATION TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No.2708/1999

This the 3rd day of August, 2001

HON'BLE SHRI KULDIP SINGH, 'MEMBER' (J)

M.K. Sharma
S/o Late Shri R.K. Sharma
R/o Qrs. No.68, Double Storey,
Block No.6, Tilak Nagar,
New Delhi-110018.

..... Applicant
(By Advocate: Shri A.K. Behra)

VERSUS

1. Union of India
the Secretary, Ministry of Defence
South Block, New Delhi-110001.
2. Engineer-in-Chief,
Army Headquarters,
Kashmere House,
New Delhi-110011.
3. Commander Works Engineer (Project),
Delhi Cantt., New Delhi-110010.

..... Respondents
(By Advocate: Shri K.K. Patel)

O R D E R (ORAL)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 as he is aggrieved by an order dated 31.12.1999 by which he has relieved from present station of posting and is directed to be posted at Sriganganagar, which is a hard station posting. Prior to that vide order dated 22.4.1996, the applicant was transferred against which he had made a representation, since his mother was suffering from some disease so the department on consideration of his representation had allowed the deferment of transfer order till 31.12.1999. But in the meanwhile, the ground on which the transfer order was deferred, i.e., the illness of his mother that did not remain there as the mother of the applicant had

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years, though, the department has a right to transfer his subordinate even beyond 50 years for a shorter period.

5. The applicant has a grievance that since his name did not appear in the seniority list nor any guide-lines have been followed, so the transfer order is liable to be quashed.

6. During the pendency of this case, the respondents were directed to place on record the seniority list prepared for tenure posting. The said seniority list was taken on record on 2.8.2001 and it is an admitted case of the respondents that the applicant's name did not appear in the seniority list at the relevant time, when the applicant was transferred vide impugned order.

7. The applicant was promoted as UDC on 5.9.1995 and according to the respondents, he joined as UDC on 11.4.1996. Since the name of the applicant did not appear in the seniority list prepared for tenure posting so I find that this OA can be disposed of at this stage itself with a direction to the respondents that they will interpolate the name of the applicant in the seniority list maintained by them for the purpose of tenure posting at an appropriate place keeping in view his date of appointment as UDC in accordance with the rules and thereafter if the applicant as per rule is liable to be transferred, he may be transferred in accordance with the rules. At this stage, Shri K.K. Patel pointed out that the

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policy of transfer as it was prevalent on 22.5.1995 has been superseded and new transfer policy has been promulgated w.e.f. 12.12.1999 so if the respondents want to transfer the applicant, they can transfer him in accordance with the new rules. While transferring the applicant, the age factor of the applicant if provided under the new policy may also be taken note of.

8. In view of the above, the impugned order is quashed and the present OA is disposed of in terms of the aforesated directions. No costs.


(KULDIP SINGH)
MEMBER (J)

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