

**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.**

O.A. No. 1724 of 1998 decided on 14.12.1998.

Name of Applicant : Sumer Singh

By Advocate : Shri S.P.Mehta

Versus

Name of respondent/s Union of India & another

By Advocate : Shri V.S.R.Krishna

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes/No

2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No

N. Sahu
(**N. Sahu**)
Member (Admnv)

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1724 of 1998

New Delhi, this the 14th day of December, 1998

Hon'ble Mr. N. Sahu, Member (Admnw)

Sumer Singh, S/o Sh. Malkhe Ram, R/o
Qr. No. 12, Sector 7, R.K. Puram, New
Delhi.

-APPLICANT

(By Advocate Shri S.P. Mehta)

Versus

1. Union of India through Director, Central Bureau of Investigation, New Delhi.
2. Administrative Officer (E), Central Bureau of Investigation, New Delhi. -RESPONDENTS

(By Advocate Shri V.S.R. Krishna)

ORDER

By Mr. N. Sahu, Member (Admnw)

The applicant in this Original Application impugns the order of transfer dated 29.4.1998. This order transfers the applicant to the CBI, ACB Lucknow.

2. The grounds for impugning this order are that of (i) bias and prejudice. The ground for substantiating bias is that the order voluntarily retiring the applicant from 1.10.1997 was successfully challenged before the Tribunal in O.A. No. 2756/1997. Thereafter the applicant reported for duty on 2.4.1998 which was officially notified on 29.4.1998. On the same day the respondents issued impugned transfer order. (ii) He has two school going children and an old bed-ridden mother. Besides, he himself is a diabetic patient and there



is no other male member in the family to look after his mother in the event of his joining at Lucknow. Finally, it is submitted that other colleagues of the applicant with longer period of stay were retained.

3. After notice the respondents stated that the applicant pursuant to his relieving order dated 1.6.1998 availed of the advances in pay as well as travelling allowance and packing allowance sanctioned during the first week of June, 1998. After receiving Rs. 4,700/- by way of one month's advance pay and fare and packing allowance of Rs.5,300/- he did not proceed to join but approached this Tribunal. The respondents deny any bias because the applicant's representation submitted on 5.6.1998 to the Director was considered and rejected. The transfer order was a mere coincidence with notifying the applicant's joining. The applicant being a member of a disciplined force is required to serve anywhere and it is not open to him to contest the transfer order after purporting to act on those orders by availing the transfer advances.

4. The learned counsel for the applicant cited the decision of the Hon'ble Supreme Court in the case of B.Varadha Rao Vs. State of Karnataka and others AIR 1986 SC 1955 and stated that a frequent, unscheduled and unreasonable transfer cannot be supported.

5. I have carefully considered the submissions of the learned counsel for the parties.

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6. The law on the subject of transfer has been laid down by the Hon'ble Supreme Court in the case of State of Punjab Vs. Joginder Singh Dhatt - AIR 1993 SC 2486 in which their lordships have held that it is entirely for the employer to decide when, where and at what point of time a public servant is transferred from his present posting. In Union of India Vs. S.L. Abbas, AIR 1994 SC 2444 = (1993) 4 SCC 357 = (1993) 25 ATC 844 their Lordships held that the authority should keep in mind the guidelines issued by the Government on the subject but the said guidelines do not confer upon the Government employee a legal enforceable right. In N.K. Singh Vs. Union of India, (1994) 6 SCC 98 = (1994) 28 ATC 246 their Lordships held that the only realistic approach is to leave it to the wisdom of the hierarchical authorities to take a decision on transfer because they have to consider several factors including suitability of the person for a particular post and exigencies of administration.

7. I do not find any material to justify the allegation of bias. On the applicant's representation he was allowed to continue for some more time. His representation was considered by the highest authority in the organisation. His case was a case of voluntary retirement. His petition for voluntary retirement was accepted and orders were passed ignoring his withdrawal letter. This was disapproved by the Tribunal and, therefore, he was directed to be allowed to rejoin his duties. I fail

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to understand where the question of bias arises. The applicant is an employee of an investigative agency. There is no basis to allege that it transfers its employees on whims and fancies. The Courts cannot dictate to the organisation as to whom to retain and whom to transfer. It is not a case of discrimination. There may be many reasons which compel the administrative authorities to transfer one particular official and retain others, although the transferred official has put in a lesser length of stay in the station than others. The authorities might have thought that the services of the applicant would be more useful to the organisation in Lucknow than in Delhi. The Court cannot substitute its judgment to that of the authority in question.

8. With regard to the claim of school going children, the applicant has been transferred in April and he took the advances in June, 1998. If he had complied with the orders immediately, he could have secured admission in the schools at Lucknow. It is not a case of transfer during mid academic session. With regard to the health of his aged mother and the absence of any male member in the family to look after her, these are not grounds on which a transfer can be interfered with. The applicant had stayed very long in Delhi in his entire career. In fact he had been briefly out of Delhi for a short period. May be his other colleagues have stayed for a longer tenure. That by itself does not give him a cause to

contest the transfer. MA No.1859/98, listing out people who stayed longer than the applicant does not advance his case any further.

9. In the circumstances the O.A. (along with M.A.) is dismissed. The interim order dated 9.9.1998 directing status quo is vacated.

Mausam Singh
(M. Sahai) 14.12.98,
Member (Admn)

KV.