

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 202 of 1998

New Delhi, dated *the 2nd April*

1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Baldev Kumar,
R/o House No. 19-G,
Sector-4, Gole Market,
New Delhi-110001.

.... APPLICANT

VERSUS

1. The Secretary,
Government of India,
Ministry of Health & F.W.,
Nirman Bhawan,
'A' Wing,
New Delhi.
2. The Director General
Health Services,
'A' Wing, 4th. Floor,
Nirman Bhawan, New Delhi.
3. The Director,
CGHS 'A' Wing,
5th Floor, Nirman Bhawan,
New Delhi.
4. The Addl. Director (Hqrs.),
CGHS 'D' Wing,
5th Floor, Nirman Bhawan,
New Delhi.
5. Mr. Ram Kishan,
General Secretary,
All India CGHS Employees
Association,
K-45, Srinivasपुरi,
New Delhi.

... RESPONDENTS

Advocates: Shri Manish Pitale for applicant
Shri M.K.Gupta for respondents

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' order dated
10.10.97 (Ann. I) transferring him from CGHS
Dispensary, Kalibari to CGHS Medical Centre,
Parliament House Annexe.

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2. Applicant who is a Pharmacist under CGHS admittedly had completed three years at CGHS, Kalibari, when he was transferred by the impugned order. Applicant apprehends that this transfer was consequent to certain irregularities having been detected in the CGHS Kalibari, but contends that instead of taking appropriate action against those at fault, a number of staff working there were transferred to give an impression that action was being taken in the matter. Applicant asserts that the impugned transfer is in violation of Respondents' transfer policy (Ann. 2) but despite his representation respondents referred to reconsider his transfer. Applicant also asserts that while he has been illegally and arbitrarily transferred, others who have been posted at one place for much longer than he have not been touched, and those who brought illegal pressure to bear on the authorities did succeed in getting their transfer stayed.

3. Respondents in their reply have challenged the O.A. and have denied the contentions that the transfer is in any way illegal or arbitrary.

4. Applicant in his rejoinder has broadly reiterated the contents of the O.A.

5. I have heard applicant's counsel Shri Manish Pitale and Shri M.K. Gupta for respondents.

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6. Shri Gupta has stressed, what has also been stated in respondents' reply, namely that applicant's transfer to CGHS Medical Centre, Parliament House Annexe is in no way connected with the alleged irregularities in CGHS, Kalibari, but in fact was because of his sincerity, efficiency and ability. Having regard to the ~~sensitive~~ ^{sensitive} nature of the posting in Parliament House Annexe, I have no reason to disbelieve this contention. The impugned transfer cannot be said to be in violative of any of the provisions of respondents' transfer policy (Ann. 2), and merely because the transfer of one or more employees was subsequently stayed by respondents cannot give applicant a cause for action that his transfer should be similarly stayed. The impugned transfer does not satisfy any of the tests which would warrant judicial interference as laid down in a catena of judgments of the Hon'ble Supreme Court.

7. During hearing Shri Pitale apprehended that respondents' Memo dated 6.3.98 (Ann. A-3 to rejoinder) would be used by respondents to build up a case and harass his client without reason. Shri Gupta stated that the said Memo was only to caution applicant to perform his duties properly in view of the sensitive nature of the posting. He refuted Shri Pitale's contention that after the applicant's posting to Parliament House Annexe, no work had been assigned to him and asserted that if applicant performed his duties diligently, respondents would have no reason to pull him up.

8. As noticed above, I have no reason to doubt respondents' assertion that applicant was selected for being posted at Parliament House Annexe because of his sincerity, efficiency and ability and I also do not doubt that applicant will conduct himself hereafter in a manner so as to justify respondents' trust in him. In so far as applicant's prayer for his salary for the period between his being relieved from CGHS, Kalibari and his joining at CGHS Medical Centre, Parliament House Annexe is concerned, the same should be dealt with as per rules.

9. The O.A. is disposed of in terms of para 8 above. No costs.

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A)

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