

Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 24th December, 1998

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

(2)

O.A. No. 2354 of 1998

Shri Ravinder Jeet Singh,
S/o Shri Surjit Singh,
West Division, Horticulture,
C.P.W.D., I.P. Bhawan,
New Delhi. ... Applicant

(By Advocate: Dr. Surat Singh)

Versus

1. Director, Horticulture CPWD,
I.P. Bhawan, New Delhi.
2. Dy. Director, Hort. C.P.W.D.,
I.P. Bhawan, New Delhi.
3. Director General,
C.P.W.D., Nirman Bhawan,
New Delhi. ... Respondents

(By Advocate: Mrs. P.K. Gupta)

O.A. No. 2528 of 1998 ✓

Shri Munishwar Pal,
S/o Shri Sukhbir Singh,
R/o 119/9, Sector I, Pushp Vihar,
New Delhi-110017. ... Applicant

(By Advocate: Dr. Surat Singh)

Versus

1. Director, Horticulture,
C.P.W.D., I.P. Bhawan,
New Delhi.
2. Dy. Director, Hort., C.P.W.D.,
Div. II, MSO Building,
I.P. Estate, New Delhi-110002.
3. Director General,
C.P.W.D., Nirman Bhawan,
New Delhi-110011. ... Respondents

ORDER

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

As these two O.As involve common question
of law and fact they are being disposed of by this
common order.

2. Applicants (i) Shri Ravinder Jeet Singh and (ii) Shri Munishwar Pal impugn respondents' orders dated 24.4.98, transferring them to Indore and Calcutta respectively. (3)

3. I have heard applicants' counsel Dr. Surat Singh in both O.As and respondents' counsel Mrs. P.K. Gupta in O.A. No. 2354/98 has been heard, and No notices have been issued in O.A. No. 2528/98 as yet.

4. In UOI Vs. H.N. Kirtania JT 1989 (3) SC 131 the Hon'ble Supreme Court has held that transfer in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of mala fides. This view has been reiterated by the Hon'ble Supreme Court in U.O.I. & Ors. Vs. S.L. Abbas 1993 (4) SCC 357.

5. Admittedly applicants are liable to be transferred to anywhere in India, and there is no violation of statutory rules in transferring them outside Delhi. No mala fides have been alleged against any particular officer and in any case, no such officer has specifically been impleaded in either of these two O.As to enable him to rebut any allegation of mala fide. In Applicant Shri Ravinder Jeet's case his representation to the competent authority has also been considered and rejected vide Memo dated 8.12.98 (Exh. 10).

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6. Applicants have taken the grounds that their wives are teaching in schools in Delhi and reference has been made to DPAR's O.M. Dated 3.4.86 which provides that as far as possible and within the constraints of administrative feasibility, the husband and wife should be posted at the same station.

(A)

7. Respondents have pointed out that the aforesaid O.M. dated 3.4.86 clearly indicates that husband and wife should be posted to same station, subject to the constraints of administrative feasibility and there is no absolute bar to transfer a Govt. servant out of Delhi, merely because his wife/husband is working in Delhi in a Government Dept. and hence the aforesaid O.M. would not be applicable in applicants' case, even if wives of both applicants were working in a Government school. In this connection it is noted that applicant Ravinder Jeet Singh's wife is working in a non-Governmental School and that O.M. would in any case not be applicable to him.

8. It has also been urged that the transfer is being made in mid academic session, but this is also not correct as the transfer orders are dated 24.4.98, which have still not been implemented by applicants.

(2)

9. As the impugned transfer orders are not violative of any statutory rules, and no allegation of mala fide has been established, both O.As are dismissed. No costs.

9. Let a copy of this order be placed in each case record.

(S.R. Adige)
Vice Chairman (A).

/GK/

Jhunjhunwala
Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg,
New Delhi 110001