

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 328/98

New Delhi this the 28 Day of October, 1998

Hon'ble Mr. R.K. Ahooja, Member (A)

Shri S.K. Rastogi,
S/o Late Shri R.S. Rastogi,
MES No. 457526 S.A-I, E-8 Section,
O/o G.E. North,
Meerut Cantt.
R/o 71 Maliwara. Near Old Tehsil,
Meerut - 250002.

Applicant

(By Advocate: Shri G.D. Bhandari)

-Versus-

1. Union of India through
The Secretary,
Minsitry of Defence,
Govt. of India/South Block,
New Delhi.
2. Engineer-in-Chief (E-in-C),
Army HQ Kashmere House DHQ,
New Delhi.
3. The Addl.D.G.,.
QMG's Branch,
AHQ, New Delhi-110001.
4. Chief Engineer
Central Command,
Lucknow.
5. Commander Works Engineer (CWE),
Meerut,
6. Garrison Engineer (N),
Meerut Cantt. Respondents

(By Advocate: Shri Harveer Singh, proxy counsel
for Mrs. P.K. Gupta)

ORDER

The applicant while working as SA Grade I under Garrison Engineer (N) Meerut is aggrieved by the notice of his transfer to STE CC, Lucknow dated 12.12.1997, Annexure A-1. The applicant submits that he came to Meerut in the office of STE CC, Meerut on 15.8.1989 and was presently working in the office of the Garrison Engineer (N) w.e.f. 24.9.1997. The said office has now

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the sanctioned strength of 30 persons against which only 9 persons are working. Therefore, there is no question of applicant being considered surplus. Considering that he joined on 24.9.1997, he is also not the person with longest service in the office of the Garrison Engineer. He submits that the office of STE CC, Lucknow was actually functioning from Meerut and it is now planned to send the staff to Lucknow. However, the staff which was working against the strength of STE CC, Lucknow are being adjusted in other offices at Meerut while he is being sent in their place to Lucknow. He also says that the Lucknow office is a non-MES Office and his consent for posting against a non cadre post has not been taken. He has also pointed out that he has received another order dated 4.2.1998, Annexure A-3, whereby he has been ordered to keep ready for posting to a hard/tenure station. In other words, his earlier order of transfer to Lucknow has been superseded but the respondents propose to relieve him from Meerut with a direction to go to Lucknow.

2. The respondents in their reply have stated that the posting of the applicant to Lucknow has taken place on the basis that he has the longest stay in Meerut. They deny that his transfer is on the basis that he has become surplus in the Meerut Office. As regards the move to a hard/tenure station as per order dated 4.2.1998, the respondents state that such orders get automatically deferred for a period of 3 years after the date of joining at a new duty station.

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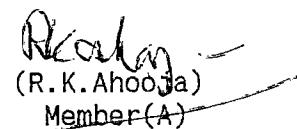
3. Shri G.D. Bhandari, learned counsel for the applicant argued that since the respondents propose to send the applicant to a hard duty posting as per their order of 4.2.1998, he should not be put to harrasement by being first sent to Lucknow. This argument does not hold water in view of the statement given by the respondents in para 5.1 of their reply that the move to hard/tenure station automatically gets deferred for a period of 3 years after the date of joining a new duty station. Shri G.D. Bhandari argued that since certain persons were working in the office of STE CC Lucknow with temporary headquarters at Meerut, then those persons should shift to Lucknow with the shifting of the office. Here also, it is a matter of policy decision whether the change of station should take place as per personal option of the employee or on the basis of length of stay. Only the principle adopted should be applied uniformly. I am unable to accept the arguments on behalf of the applicant that even if the applicant has the longest stay in Meerut, he does not have the longest stay in the particular office where he has presently been posted. If the criteria is station "seniority" then it is immaterial in which office the applicant might be working. It has also been argued on applicant's behalf that the proposed transfer of the applicant is not in public interest since it has been done merely to adjust some favourite in Meerut. Since there is no allegation that the so called favourite had a longer stay in Meerut compared to the applicant, this argument also cannot be accepted.

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4. It has also been argued that the office of STE CC, Lucknow is a non MES office in which the applicant is not liable to serve without his consent. On the other hand the applicant in his rejoinder has drawn attention to certain instructions by which the posting to STE CC, Lucknow would be considered as a tenure posting. No rules have been produced to show as to how the posting of MES Office to STE CC Lucknow office are to be regulated. I am unable to accept the plea that the applicant is not liable to serve in the office of STE CC, Lucknow without his consent

5. In the result, I find no good ground to interfere with the transfer order. The O.A. is accordingly dismissed.


(R.K. Ahuja)
Member (A)

Mittal