

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2092/1995

New Delhi, this 6th day of November, 1996

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

Shri Dominic Minz  
s/o Shri Marcus Minz  
1112-G, Sector IV  
Pushp Vihar, Saket, New Delhi .. Applicant

(By Shri Ms. Nidhi Bisaria, Advocate)

versus

1. Union of India, through  
Secretary  
Ministry of Water Resources  
Shram Shakti Bhavan, New Delhi

2. Chairman  
Central Water Commission  
Sewa Bhavan, RK Puram  
New Delhi .. Respondents

(By Shri Madhav Panickar, Advocate, through  
proxy counsel Shri J. Banerjee)

ORDER(oral)

The applicant, who was working as Superintendent in Upper Ganga Circle was transferred to Varanasi by the impugned order dated 21.4.95(Annexure A-1). He is aggrieved that this transfer has been made in controvention of the transfer policy (Annexure A-4) which prescribes that officers who are within five years of the date of their superannuation should not be transferred. He also submits that he has a son who is undergraduate and his wife is suffering from hypertension and other ailments and therefore he has made a representation that he should be adjusted against a vacancy in any other wing of CWC at Delhi keeping in view the transfer policy as well as compassionate ground as stated above.

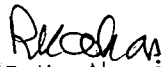
pu

2. Respondents state that the representation was considered but since the transfer became inescapable due to transfer of whole Upper Ganga Circle to Dehradun, the request of the applicant could not be accepted ~~to~~. They state further that <sup>or</sup> ~~change of~~ the transfer of the applicant from Dehradun to Varanasi was at his own request and that applicant has already joined at Varanasi.

3. I have heard the learned counsel on both sides and gone through the records. It is correct, as pointed out by the learned counsel for the applicant, that the transfer policy says that any employee due for retirement on superannuation within a period of five years before his superannuation shall not ordinarily be transferred if persons of lesser age are available for manning the posts. Learned counsel for the applicant argued that as per Clause 17 transfer requires prior approval of the Member of the Commission. This approval was not obtained in the present instance. Clause 7 states that persons within 5 years of superannuation shall not ordinarily (emphasis supplied) be transferred. However, requests for transfers to place of their choice, if made, would be considered. A reasonable explanation has been given by the respondents for the transfer of the applicant inasmuch as the whole headquarters of the Division in which the applicant was working has been transferred to Dehradun. It is another matter that there may be vacancies elsewhere in the CWC where the applicant could be transferred in order to help him stay in Delhi.

Representation on this ground was considered by the respondents but not acceded to. However they have acceded to the request of the applicant for change of transfer from Dehradun to Varanasi.

4. In the light of the above circumstances, the OA is dismissed. No costs.

  
(R.K. Ahooja)  
Member(A)

/gtv/