

(3)

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.2639/96

New Delhi this the 31st day of December 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Shri J.S.Sharma  
Son of Late Shri P.S.Sharma  
R/o 6/H Shahpurjet  
New Delhi - 110 049

...Applicant

(By advocate: Shri V.K.Rao)

Versus

Union of India through

1. Secretary  
Ministry of Health & Family Welfare  
Nirman Bhawan, New Delhi
2. Director General  
Health Services  
Nirman Bhawan  
New Delhi.
3. Dr.S.R.Agarwal  
Airport Health Officer  
Delhi Airport  
Palam New Delhi.

...Respondents.

(By advocate: Mrs Raj Kumari Chopra)

O R D E R (oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Applicant Shri J.S.Sharma, Sanitary Inspector, is aggrieved by his transfer from Delhi to Calcutta by order dated 17.12.96 and has assailed this order in this application filed under Section 19 of the Administrative Tribunals Act. It is alleged that the third respondent is prejudiced in mind against the applicant, that he has given the applicant a warning on 3.12.96 without even calling for his explanation and that the impugned order of transfer has been passed at his behest out of malafides.

2. Notices having been issued on this application, Mrs Raj Kumari Chopra, additional standing counsel, appeared for respondents 1 & 2 who have filed reply statements. Respondent No.3 has also filed a reply statement. In the reply filed by the third

respondent, the allegation of malafide has been refuted. Respondents Nos. 1 & 2 in their replies seek to justify the impugned order on the ground of administrative exigency and deny allegation of malafide.

At the time when the application was first heard for admission, before issuing the notice, operation of the order of transfer was directed to be kept in abeyance.

2. On a perusal of the pleadings, I find that it is necessary that the matter has to be disposed of at the earliest. As pleadings are complete, as agreed to by counsel on either side, I propose to dispose of this application at this stage itself.

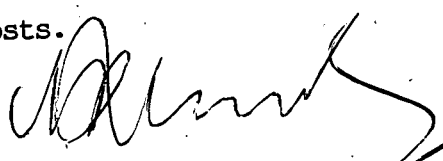
3. On a scrutiny of the material on record, I am not convinced that the impugned order of transfer is either punitive or vitiated by malafides or prompted by any intention to exercise power with ulterior motives. The respondents themselves had given the applicant a transfer on compassionate grounds in the year 1985 to Delhi and have been kind enough to continue him in Delhi for about 11 years. Therefore, unless there is an administrative need, it is difficult to believe that the respondents would have withdrawn this compassion from him. An officer holding a transferable post cannot claim that he should always be retained at a particular place or on a particular post. Personal convenience, inconvenience, difficulties etc. are always secondary and subsidiary to administrative interest. It is not as if the competent authority should be blind to the difficulties of the serving officials. The personal problems should be kept in mind while passing orders even in the public interest. To the extent possible, transfers and postings should be made taking into account the requests of the official concerned. However, it may not always be feasible to post officials in their choice stations. In the case

of the applicant, he was allowed to continue for about 11 years in Delhi. Now that he has been asked to go to Calcutta, he has no option. However, in has emerged from the materials on record and the averments made in the application that the applicant's wife has got a serious ailment (Epilepsy) and even at the moment, is undergoing treatment. Learned counsel for the applicant states that the applicant would give effect to the order of transfer if he is allowed to avail of leave for 15 days, for, he has to take his wife for expert consultations and tests and to make a representation for posting to a more convenient station.

4. As the applicant is willing to abide by the order of transfer and his request being reasonable, I dispose of this application with the following directions:

- [a] The applicant shall make an application for leave for a period not exceeding fifteen days which the competent authority shall consider sympathetically and grant.
- [b] The applicant shall join his post in Calcutta within fifteen days from today.
- [c] After joining at Calcutta, the applicant may make a representation for a posting to place preferred by him and if such a representation is made, the second respondent shall consider his request sympathetically considering the ill-health of the applicant's wife and pass appropriate orders within a month after receipt of the representation.

There is no order as to costs.

  
[A.V. Haridasan]  
Vice Chairman (J)

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