

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2647 of 1996

New Delhi this the 27th day of August, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Lalit Kumar
S/o Shri Suraj Prakash
Working as Steno Grade-III in the
Office of Garrison Engineer (North),
AF Palam,
Delhi Cantt.10.

....Applicant

By Advocate Shri A.K. Trivedi

Versus

1. Union of India
Through its Secretary,
Ministry of Defence,
South Block,
New Delhi.

2. Headquarters
Chief Engineer,
Western Command,
Engineers Branch,
Chandimandir-134107.

3. Garrison Engineer (North) AF
Palam,
Delhi Cantt.10.

...Respondents

By Advocate Mrs. Meera Chhibber.

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar, Member (A)

Applicant contests the impugned order of transfer, posting him from GE AF(N) Palam to GE Engineering Part, Suratgarh. He met with an accident sometime in 1991 and ever since, he is suffering from Epilepsy and has been under treatment. His grievance is that on an earlier occasion he was transferred but his posting was subsequently cancelled after he was referred to the second medical opinion. He alleges that the

W

respondents have again attempted to transfer him although he continues to be suffering from same medical condition and he has not been subjected to any second medical opinion, before order of transfer. He has obtained a medical advice from C.G.H.S (Unani Unit). His representation against the posting order has already been rejected by the letter of the respondents dated 20.11.1996. The applicant alleges arbitrariness and mala fide in his transfer.

2. In reply, the respondents have denied the allegation of any arbitrariness or mala fide. They have also asserted that while it is true that on an earlier occasion his transfer was cancelled on medical grounds the applicant was never permanently exempted from such transfer. They further assert that the applicant has fairly been regular on duties but only on receipt of the transfer order, he has raised the issue of physical condition. The respondents also aver that in accordance with the general Government Policy, the applicant has completed his tenure in Delhi and has to move outside Delhi and no exception can be made in his case just because he had suffered injuries sometime in 1991. The learned counsel for the respondents has also pointed out that full facilities are available at the new place of posting. The learned counsel for the applicant, however, denies this assertion. Attention has been invited to the general circular of the respondents wherein it is provided that where CGHS facilities are not available, the MES employees are entitled to the treatment at Army Hospital and, therefore, the learned counsel for the

W

.3.

respondents submits that there should be no difficulty for the applicant to receive medical attention at the new place in case he is required to undergo any treatment.

3. I have heard the learned counsel for the parties and have also perused the record.

4. While it is true that the applicant does not have a permanent immunity from transfer on account of his physical condition which he suffered during 1991 injury, in the interest of justice it is felt that the applicant could be asked to appear before a duly constituted Medical Board in which there should be a Neuro Surgeon also to certify his fitness for being posted at the new place of posting and his further service there. The respondents are accordingly directed to constitute a Medical Board as above, within the next 10 days and the applicant is also directed to appear before the said Medical Board as and when constituted and the results of the Medical Board's Examination should be communicated to the applicant within a period of one week thereafter and the applicant shall abide by the decision of the respondents on the basis of the aforesaid Medical Board's opinion.

5. With this, the application is disposed of. There shall be no order as to costs.

6. In view of the time schedule given to the respondents, the Registry is directed to hand over a copy

h

.4.

of this order to the counsel for the respondents by tomorrow, i.e., 28.8.97.

Rakesh



(K. MUTHUKUMAR)
MEMBER(A)