

Central Administrative Tribunal
Principal Bench

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D.A. No. 307/96

New Delhi, this the 17th day of April, 1996

Hon'ble Shri A.V.Haridasan, Vice-Chairman (J)
Hon'ble Shri R.K.Ahooja, Member (A)

Shri R.S.Sethi,
Drilling Engineer (Sr.),
in the o/o Geological Survey of India,
Faridabad.

(By Shri A.K.Behra, Advocate)

...Applicant.

Versus

Director General,
Zoological Survey of India
27, J.L.Nehru Road,
Calcutta-700 016.

The Director-in-charge,
Office of Geological Survey of India,
NH-5P, NIT,
Faridabad- 122001.

(By None)

..Respondents

Order (Oral)

By Hon'ble Shri A.V. Haridasan, Vice-Chairman (J)

The applicant who is working as Drilling Engineer (Sr.) has assailed the order dated 12.12.1995 whereby he has been transferred from Faridabad to Jabalpur. He has stated in this application that this transfer is against the Policy of the Government to give an official, who has got less than two years to serve, the posting near to his home town or the place of his choice. He has also alleged that this transfer to Jabalpur would cause undue hardship to his family members.

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(C)

When the application came up for hearing for admission on 26.2.1996, a notice was issued to the respondents and, as an ad-interim measure, an order not to relieve the applicant, was also issued. The interim order was thereafter extended and the respondents have filed their short reply. In the short reply, the respondents stated that the applicant has already been relieved and, therefore, the interim order needs modification.

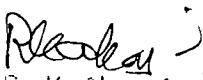
When the application again came up for hearing on admission and for considering the continuance of the interim order, Shri A.K.Behra, appeared as counsel for the applicant but none appeared for the respondents.

We have heard Shri A.K.Behra, counsel for the applicant and we have also carefully gone through the allegations made in the original application and as also the other materials placed ~~in the~~ ^{on} case file. The transfer in the case of officers holding a transferable post is a condition of service and, therefore, no officer has got an ~~indiscreet~~ ^{indiscreet} right to claim that he should be retained in a particular place or on a particular post. It is for the competent authority to determine in the public interest, where and how the services of an officer can be better utilized. It is not as if the Tribunal will ~~watch~~ ^{be silent when}, if an authority exceeds his power or misuse the same to achieve ulterior motive, let it be the ~~case~~ ^{case} of transfer. But in this case, we do not find any allegation towards ^{of} the malafides against the persons who issued the impugned order. What is alleged against the impugned order is non-observance of the guidelines. It is true that the guidelines are not to be ~~followed~~ ^{ignored} but meant to be followed. But it is not as if the competent authority cannot

transfer an officer even against the guidelines, if such an action is warranted in public interest. This is not the case that the competent authority was motivated by anything other than public interest ~~in this case~~. ^{As} the applicant has only less than a year to go before his retirement, we can understand the heart burn which he is having as he ~~had~~ to move out to a place which is not of his liking at the fag end of his ~~very~~ career. The personal convenience and inconvenience should give way and precedence will be ⁱⁿ ~~in the~~ public interest. It is well settled by now by a catena of rulings of the Apex Court that the courts and Tribunals shall not interfere in the routine administrative matters like transfer unless malafide and ~~culpable~~ ^{Colorable} exercise of power is patent and manifest. Nothing of that sort appears to ^{been} have ~~been~~ alleged in this case.

In the light of the above discussion, we do not find anything further to deliberate ^{on} this matter. Therefore, the application is rejected under Section 19(3) of the AT Act. If the applicant experiences any great hardship at the transferred station, it is ofcourse, open for him to make a representation for/transfer back to Faridabad, to the competent authority, who may consider and pass an appropriate order.

After the dictation of the judgement one Shri Harbir Singh proxy for Smt. P.K.Gupta, appeared.


(R. K. Ahuja)
Member (A)


(A.V. Haridasan)
Vice-Chairman (J)

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