

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. No. 533 of 1997

New Delhi this the 2nd day of June, 1997

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

Shri Brijeshwar Singh Rana
R/o Quarter No.23, Type-II,
BTPS PMT, Staff Colony,
Badarpur,
New Delhi.

... Applicant

By Advocate Shri K.L. Bhandula

Versus

1. Union of India through the Secretary
to the Govt. of India,
Ministry of Defence,
South Block,
New Delhi-110 011.

2. The Chairman & Director General,
Indian Ordnance Factories Board,
Ministry of Defence,
Govt. of India,
10-A, Okland Road,
Calcutta-700001.

3. The General Manager,
Opto Electronics Factory,
Ministry of Defence,
Govt. of India,
P.O. Raipur,
Dehradun-248008.

4. The General Manager,
Ordnance Factory,
Ministry of Defence,
Govt. of India,
Muradnagar (U.P.).

5. Shri K.P. Singh (by name)
General Manager,
Opto Electronics Factory,
Ministry of Defence,
Govt. of India,
P.O. Raipur,
Dehradun-248008.

.. Respondents

By Advocate Shri V.S.R. Krishna

ORDER (ORAL)

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

This application arises out of the

letter dated 6.11.95 of the Deputy General Manager under respondent No.3 to his counter part in the Ordnance Factory, Muradnagar recommending the case of the applicant for transfer, to the Ordnance Factory, Muradnagar. It was pointed out in the aforesaid letter that due to the perceived threat to the life of the applicant in Dehradun, his case for transfer out of the Factory at Dehradun while at Dehradun was suggested. However, no transfer order as such has been issued by the respondent No.3 so far. In the meanwhile, the applicant apprehending threat to his life had left Dehradun and had not resumed duty ever since. The respondents have issued a charge-sheet against him separately for the alleged misconduct of not joining duty. In this application, the applicant maintains that the respondent No.3 himself was convinced of the threat to the life of the applicant but still had not taken any action to relieve him and, therefore, has prayed that he should be directed to relieve the applicant in absentia and without joining physically at Dehradun. He has also made certain allegations against the respondent No.3 that he is acting in collusion with certain people in Dehradun.

2. In the counter-affidavit, the respondents have completely denied the aforesaid allegations against respondent No.3 and have averred that the Management of the Ordnance Factory was in no way directly concerned to the family ^{problems} of the applicant and and that they have closed his transfer case. They have, however, averred that the father of the applicant met the respondent No.3 and had promised to return the money taken from girl's father as dowry and

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keeping in view the nature of the dispute involved, the management had decided to close his case of transfer. They however, maintain, that even in effecting a transfer, the applicant should join the duty first at the Factory, which he had not done till date. The applicant, however, denies the aforesaid contention of the respondents.

3. The learned counsel for the applicant prays for the direction that at least the respondents should be directed to releive the applicant in absentia so that he may join at Muradnagar as was originally recommended by the third respondent. The learned counsel for the respondents submits that this is a case where there is absolutely no transfer order ^{which has} to be considered. The appropriate course for the applicant would be to rejoin duty at Dehradun and pursue his transfer with the respondent No.3 taking into account all his personal circumstances.

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

5. Merely on the basis of the recommendation that was made sometime in November, 1995, due to some threat perception against the applicant's life, no direction from the Tribunal could be issued to the respondents for ordering the transfer straightaway, of the applicant. The respondents have not followed their recommendation by ^{issuing} transfer order thereafter. The applicant has not joined duty and has been away since 24.2.1995 and there has been no evidence to show that he ^{has} been on leave. In the circumstances, it will not

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be appropriate for the Tribunal to grant the prayer, as asked for. However, the learned counsel for the applicant submits that the applicant will make a representation to the respondent No.2 and the Tribunal could perhaps issue suitable directions in this behalf. Taking the facts and circumstances of the case into account, I am of the view that this application can be disposed of with the following directions:-

(i) The applicant may file a representation to respondent No.2 completely detailing the facts of his case and making a suitable prayer with regard to his future posting, with a copy of the same to respondent No.3, within a period of 15 days from the date of receipt of a copy of this order.

(ii) Respondent No.2, on receipt of such a representation, may consider the same and decide the case of the applicant within 2 months from the date of receipt of this representation and issue a reasoned and speaking order in this behalf.

The application is disposed of finally.
There shall be no order as to cost..


(K. MUTHUKUMAR)
MEMBER (A)

Rakesh