

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2067 of 1994

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New Delhi, this the 27th day of July, 1999

Hon'ble Mr. Justice D.N. Baruah, Vice Chairman  
Hon'ble Mr. N. Sahu, Member (Admnv)

Tulsi Ram son of Shri Kuber Singh,  
R/o T-3/1, Vayusenabad, New Delhi

- APPLICANT

(By Advocate Shri D.C. Vohra through  
proxy counsel Shri Raj Kumar)

Versus

1. Union of India through the Secretary,  
Ministry of Defence, South Block,  
New Delhi 110011.
2. Air Headquarters through the Chief of  
the Air Staff, Vayu Bhawan, New  
Delhi 110011.
3. Headquarters Maintenance Command through  
AOC/NC Maintenance Command, Nagpur.
4. 7 BRD AF, Tughlakabad through AOC 7 BRD  
AF Tughlakabad, New Delhi.
5. 1 BRD AF through AOC 1 BRD AF Chakeri,  
Kanpur-8.

- RESPONDENTS

(By Advocate Shri Madhav Panikar)

O R D E R (Oral)

By Baruah, J.-

In this Original Application the applicant has challenged a letter dated 30.3.1994 (Annexure-A-1) holding that the order of transfer to the applicant was issued in public interest within the meaning of surplus/deficiency in order to getting him TA/DA-Joining time - a concession granted to a scheduled caste member.

2. The facts are that the applicant at the relevant time was working as a Painter in 1BRD Air Force, Kanpur. On 12.10.1982 he applied for transfer to Delhi on compassionate grounds. On receipt of the said application on 23.10.1982 the CGO(A), O i/c Civil Admin for Commanding Officer wrote to the various departments stating that the applicant had applied for a posting to any Air Force Unit

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in Delhi on compassionate grounds; and wanted to know the present vacancy position. 7BRD Air Force Station, Tughlakabad informed that one post was lying vacant. On receipt of the same information, the authority transferred the applicant to New Delhi by a Signal Message dated 2.2.1983 (Annexure-R-5). In the same Signal Message it was mentioned that the transfer was not in the public interest. A subsequent order was issued on 15.6.1988 (Annexure-L) stating that "The individual is entitled for TA/DA and joining time since his posting is in public interest within the meaning of surplus/deficiencies and no seniority benefit is admissible to him". Feeling aggrieved by that order the applicant filed an application which was registered as O.A.No.2294/1988. The said O.A. was disposed of by this Tribunal vide an order dated 24.1.1994 with a direction to the respondents to take a decision on the question as to whether the applicant's transfer with effect from 9.5.1983 was in public interest on administrative grounds or was necessitated because of surplus/deficiency. It was further directed that the respondents should examine after giving the applicant an opportunity of showing cause as to whether at this length of time, it would be just and equitable to disturb the seniority and promotion of the applicant. After considering the cause the respondents should take a decision and communicate to the applicant. The respondents after giving due opportunity to the applicant passed an order on 30.3.1994 (Annexure-A-1) holding that the transfer of the applicant was issued in the public interest within the meaning of surplus/deficiency in order of getting him TA/DA-Joining time - a concession granted to an SC member. As per rules his seniority had been correctly and justiceably fixed placing him below the personnel already serving at Air Force Station Tughlakabad, New Delhi from date of reporting i.e. w.e.f. 20.5.1983 and placed at Sl.No.23. Hence the present application.

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3. The respondents have filed written statement denying the averments made in the application. We have heard Shri D.C.Vohra, learned counsel appearing on behalf of the applicant and Shri Madhav Panikar, learned counsel appearing on behalf of the respondents.

4. Shri Vohra's contention before us is that the applicant was transferred in public interest. While asserting his claim he has drawn our attention to the order which shows that the applicant was transferred in the public interest under surplus/deficiency scheme. According to him, transfer can be made under the following three categories (i) persons posted under the surplus/deficiency scheme; (ii) persons posted on compassionate/mutual ground; and (iii) persons posted in public interest, and there was no fourth category where the transfer was on public interest under the surplus/deficiency scheme. He further submits that it was not a transfer on compassionate grounds. It was also not a transfer on his own request and definitely it must fall within the category of 'transfer on public interest'. Mr. Vohra further submits that it was true he applied for a transfer to New Delhi on a compassionate grounds but that was not acted upon and, therefore, it cannot be said that the applicant was transferred on compassionate grounds.

5. Mr. Panikar on the other hand submits that on 12.10.82 applicant applied for a transfer on compassionate grounds and immediately on receipt of the applicant's request, the authority wrote to the various departments to know the vacancy position at Delhi vide letter dated 23.10.1982. Thereafter he was transferred on 2.2.1983 i.e. only after four months of the receipt of the request of the applicant and this time was necessary to find out a suitable post. Mr. Panikar states that the applicant was transferred in the public interest under the surplus/deficiency scheme for the limited purpose to enable

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him to draw TA, DA & joining time and this consideration was on the ground that he belongs to a scheduled caste community.

6. On hearing the counsel for the parties and on perusal of the record we find that the transfer was made on the basis of the request made by the applicant on compassionate grounds. It is also clear from the record that the applicant was given the facility of TA, DA & joining time by amending the earlier order of transfer under the surplus/deficiency scheme. Therefore, we find no merit in this application. Accordingly, the O.A. is dismissed.

No costs.

  
(N. Sahu)  
Member (Adminv)

  
( D.N. Baruah)  
Vice Chairman

rkv.