

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi

OA No.949/94 9

New Delhi this the 23rd day of December 1994

Hon'ble Mr. S.R. Adige, Member (A)

Bal Raj Kumar Pall
Son of late M.R. Pal
R/o 2/34 Sadar Bazar
Delhi Cantt.

....Applicant

(By Mr.S.S.Tiwari, advocate)

Versus

1. Union of India
Through the Secretary
Ministry of Defence
South Block, New Delhi.
2. Chief Engineer
Western Command
Chandimandir
3. Chief Engineer
Air Force (WAC)
Jallandar
4. G.E. Subroto Park
Delhi Cantt., Delhi.

...Respondents

(By advocate - Mr.Vijay Mehta)

J U D G E M E N T (Oral)

Hon'ble Mr. S.R.Adige, Member (A)

In this application, Shri Bal Raj Kumar Pall, Storekeeper, Ministry of Defence, New Delhi, Delhi Cantt. has impugned the order dated 21.4.1994 transferring him to Sirsa.

2. The applicant's case is that he joined Ministry of Defence as a Storeman at Babina, Jhansi w.e.f. 6.9.1968 under Central Command, at which point of time he had no transfer liability, but subsequently he got transferred from Central Command to Western Command and was posted under A.G.E. B/R Hindon and subsequently to G.E. Subrato Park. Thereafter he was promoted as a storekeeper Grade-II w.e.f. December 1991. He states that in the absence of any transfer liability, he was transferred initially to Ganganagar and subsequently to Sirsa. He contends that apart from his not having any transfer liability, the transfer order is violative of his service conditions, and inspite of his suffering from illness, the respondents are compelling him to move out of Delhi.

3. The O.A. has been contested by the respondents who point out that the applicant had represented against his transfer to Sirsa which has been rejected. They state that the law with regard to transfer of a government servant is well settled being part of the service conditions which cannot be avoided or evaded by government servants unless a transfer order is hit by any statutory rules or by malafide. They contend that the applicant's service conditions clearly specify that the applicant has a liability for all India Service vide instructions contained in Chief Engineer, Western Command's letter dated 20.12.1991, paragraph 11 of

which states that non-industrial personnel such as the applicant are command based and industrial personnel are area based. Normally their posting should be restricted within the command area respectively.

4. I had heard Mr Tiwari for the applicant and Mr Vijay Metha for the respondents on an earlier date and after hearing the case in part Mr Metha had been called upon to furnish departmental instructions in regard to transfer liabilities of persons holding the post of Storekeeper Grade-II such as the applicant, as well as any appointment letter issued to the applicant other than the one at Ann-3 of the O.A. Today when the case came up for further hearing, none appeared for the applicant. Mr Metha stated that there was no other appointment letter than the one at Ann.3 but ^{emphasized} ~~emphasized~~ the contents of the instructions contained in the letter dated 20.12.1991 referred to above, regarding All India transfer liability of persons such as the applicant. He pointed out that no doubt while the applicant's posting is normally restricted to within a command area, in the present case, there has been no violation of the same because Delhi as well as Sirsa are in Western Command.

5. It is well settled that transfer orders should not be interfered with by Courts or Tribunals unless the same is violative of statutory rules or is malafide.

Manifestly, there has been no violation of any statutory rules and it is clear that the impugned transfer orders do not violate any executive instructions either. The applicant has also failed to show that there is any malafide in the transfer order.

6. Under the circumstances, I see no reason to interfere with the impugned transfer order and this application is, therefore, dismissed. Interim orders if any passed, are hereby vacated. No costs.

Adige
(S.R. ADIGE)
MEMBER (A)

aa.