

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

MA 3475/94
DA 1905/94

New Delhi, This the 10th Day of October 1994

Hon'ble Shri Justice S.C.Mathur, Chairman

Hon'ble Shri P.T. Thiruvengadam, Member (A)

Shri S C Gulati R/o 65/34/1
Govind Garh, Near Deon Gas Godown
Dehradun.

...Applicant

By Shri U S Bisht, Advocate

Versus

Union of India, through

1. Secretary
Ministry of Defence
New Delhi 110 011.

2. Engineer-in-Chief's Branch
Kashmir House, DHQ P.O.
New Delhi 110 011.

3. The Chief Engineer
Central Command, Lucknow

4. The Chief Engineer
Barailly Zone, Station Road
Barailly Cannt. 243001.

5. Garrison Engineer (P)
Dehradun Cantt.

...Respondents

ORDER (Oral)

Hon'ble Shri Justice S.C.Mathur, Chairman

1. This MA 3475/94 is for interim relief in original application No. 1905/94. The original application has not been admitted. The learned counsel for the applicant has no objection to arguing the original application for the purpose of admission. Accordingly we proceed to hear the learned counsel for the applicant on the admission of the original application.

2. The applicant is aggrieved by his transfer from Dehradun to Bareilly. The transfer is

alleged to be violative of the administrative instructions issued on 25.2.91 Annexure A-4.

According to the learned counsel for the applicant the applicant had not completed 3 years of stay at Dehradun and therefore he could not be transferred from that place at this stage. It is settled law that the order of transfer can be challenged only on two grounds viz (i) violation of statutory rules and (ii) malafides. (See JT 1989(3) S.C 131 Union of India Vs H.N.Kirtania and JT 1993(3) SC 678 Union of India Vs S.I. Abbas.)

3. In the present case it is not the case of the applicant that there is violation of any statutory rule. Admittedly the instructions or guidelines contained in Annexure A-4 are non-statutory. There is no allegation of mala fides against anyone. The application is accordingly misconceived.

4. It has also been laid down by Their Lordships in Gujarat State Electricity Board Vs A.R. Sungemal Poshani, AIR 1989 SC 1433 that where an employee is aggrieved by his transfer he may prefer representation to his administrative authority. In view of this authority approach to this Tribunal is unjustified.

5. In view of the above, the application lacks merit and is dismissed. There is no order as to costs.

P.T.T.

(P.T. THIRUVENGADAM)
Member(A)
10-10-94

LCP

Signature
(S.C. MATHUR)
Chairman
10-10-94