

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1072/2000

Thursday, this the 21st day of December, 2000

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

(16)

Chander Ram
S/O Late Satya Narayan,
R/O 1002, Lodhi Complex,
New Delhi.
(By Advocate: Sh. S.K.Das)

...Applicant.

VERSUS

1. Union of India
through Secretary,
Cabinet Secretariat,
Annexie-7, Bikaner House,
Shahjahan Road, New Delhi.

2. Under Secretary (Pers.)
Govt. of India,
Cabinet Secretariat,
New Delhi.

(By Advocate: Sh. Madhav Panikar)

..Respondents

O R D E R (ORAL)

The applicant in this OA is aggrieved by the order of transfer dated 27.1.2000 by which he has been transferred from New Delhi to Shilong set up. The said order has not been implemented so far and the applicant continues to remain at Delhi in accordance with an ad-interim order passed by this Tribunal on 2.6.2000.

2. The learned counsel appearing for the applicant contends that the representation made by the applicant has been rejected by the respondents by their Memorandum dated 5.4.2000 in which no specific reason has been assigned for such rejection. The learned counsel further contends that the applicant is not averse to transfer and had in his representation requested for his transfer alternatively to J & K. The aforesaid rejection

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Memorandum does not make any mention about the request of the applicant for his shifting to J & K. The learned counsel further contends that according to the transfer policy, the longest serving personnel are shifted out first and the others later on. However, in the applicant's case, the same policy has not been followed inasmuch as there are quite a few persons who have been staying at Delhi for much longer periods without having been shifted out of Delhi so far. The applicant, according to the learned counsel, suffers from serious illnesses and his childrens are receiving education in Delhi and for this reason, his shifting out of Delhi at this juncture would cause serious family problems. The applicant has done hardship postings in the past and is prepared to go to another hardship posting. The learned counsel has also referred to certain cases in which transfers were made in similar conditions but were subsequently cancelled. According to him, not considering the claim of the applicant, though he is similarly situated, amounts to discrimination.

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3. The learned counsel for the respondents has placed before me certain facts which would show that *of or having never been shown to him* consideration such as is now claimed by the applicant has been extended and shown to him in the past on three to four occasions and so it will not be correct to say that while others are treated sympathetically, no sympathy has been shown to him in matters of transfer. According to the learned counsel, the applicant was posted to Calcutta in July, 1984 as SFA from where he was brought to Delhi within a short period of time just in order to enable the

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applicant to settle down in support of his superannuated father and to be able to occupy the same Govt. quarter. Like-wise, the applicant was transferred to Shillong in 1995 but the orders of transfer were cancelled in response to his representation. The same thing happened again in 1997 and thereafter yet again in 1999. This would go to show, according to him, that the applicant ~~is~~, received fair and just consideration at the hands of the respondents in matters of transfer

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4. The Govt. officials are transferred by administrative orders and the same cannot be questioned unless malafide is established or else orders are found to suffer from the vice of arbitrariness. Such orders can also be impugned on the ground of discrimination. Beyond this, it would not be proper for the Tribunal to go into the merits or de-merits of a transfer order. In the circumstances placed before me by the learned counsel on either side, I find that it is not possible to contend that the transfer orders have been made for malafide reasons or are arbitrarily passed or else that the applicant has been discriminated against in the matter. The learned counsel for the respondents has made a fair offer which is to the effect that the applicant could be allowed, on account of his childrens impending examination in March, 2001, to stay on in Delhi till 31.5.2001 on the condition that thereafter he will be liable to be shifted to any place in the discretion of the respondents. The learned counsel for the applicant agrees to the same and wants that a fresh transfer order should be passed after 31.5.2001 cancelling the present order dated 27.1.2000.

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1. The learned counsel for the respondents does not see any problem in this.

5. The OA is disposed of in the aforestated terms. (9)
No costs.

S.A.T. Rizvi

(S.A.T. Rizvi)
Member (A)

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