

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 1317/2000

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New Delhi this the 13th day of September, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

N.D. Sharma,
550-A, Gali No. 18 F,
Sadh Nagar, Palam Colony,
New Delhi-45

.. Applicant

(By Advocate Shri B.N. Bhargava)

Versus

1. Union of India through the
Secretary, Ministry of Defence,
South Block, New Delhi.

2. Officer-in-Charge,
A O C (Record),
Secundrabad (AP).

3. The Commandant,
COD,
Delhi Cantt. 10

.. Respondents

(By Advocate Shri Gajendra Giri)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant has filed this application impugning the order passed by the respondents dated 13.7.2000 (Annexure A-1) transferring him as part of the clerical staff from COD Delhi Cantt. to CASD, Delhi Cantt.

2. I have carefully perused the pleadings and considered the submissions made by Sh. B.N. Bhargava, learned counsel for the applicant and Shri Gajendra Giri, learned counsel for the respondents.

3. At the out-set, Shri Gajendra Giri, learned counsel has submitted that after the aforesaid impugned order was passed by the respondents, they have subsequently

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accepted the applicant's withdrawal of option for transferring to CASD, Delhi Cantt. Admittedly, the applicant had exercised his option voluntarily to be posted to CASD, Delhi Cantt. by his letter dated 23.6.2000, which he subsequently withdrew on 11.7.2000. The impugned posting order has been passed by the respondents on 13.7.2000. Shri Gajendra Giri, learned counsel has drawn my attention to Annexure A-1 to the counter reply, which is a Signal Telegram - Message. In this Message it has been mentioned that certain persons, including the applicant, UDC, ^B who had requested for deletion of their names for posting to CASD, Delhi Cantt. which has been accepted by the competent authority. This Message is dated 2.8.2000.

4. After filing of this OA on 17.7.2000, the Tribunal by order dated 18.7.2000 had directed the respondents to maintain status quo as on that date regarding shifting of the applicant to CASD, Delhi Cantt., as per the impugned order dated 13.7.2000. Shri B.N. Bhargava, learned counsel submits that in view of this order, the applicant has continued in his posting in the earlier unit i.e. COD, Delhi Cantt. Learned counsel for the applicant has submitted vehemently that in the circumstances of the case, although the respondents have accepted the withdrawal of the earlier request made by the applicant for posting to CASD, Delhi Cantt., that has been done late for which he claims that exemplary costs may be awarded against the respondents and in particular respondent 3 personally. This has been

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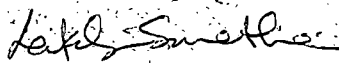
opposed by the learned counsel for the respondents who has submitted that the action of the respondents in issuing the order dated 13.7.2000 was in accordance with the option exercised by the applicant earlier. His later request for withdrawal of posting to CASD, Delhi Cantt. has also been considered and accepted later. He has, therefore, submitted that the action taken by the respondents in this case cannot be faulted and costs should be awarded against the applicant in favour of the respondents.

5. From the facts mentioned above, it is seen that following the applicant's request for withdrawal of his earlier option giving on 11.7.2000, the respondents have accepted his request to delete his name for posting to CASD, Delhi Cantt. It is also an admitted fact that during the intervening period after the impugned order dated 13.7.2000 was passed and the letter dated 2.8.2000, the applicant has not^{been}/shifted from his earlier posting in COD, Delhi Cantt. It is also relevant to note that the order dated 13.7.2000 earlier passed by the respondents is also in accordance with the option exercised by the applicant who had volunteered to be posted to the new Unit i.e. CASD, Delhi Cantt. In the circumstances of the case, I am unable to see any merit in the contentions of the learned counsel for the applicant that there is any fault and wilful harassment of the applicant in the action taken by the respondents. Accordingly the prayer for imposing costs, ~~legis~~ alone exemplary costs against the respondents is rejected.

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6. The main prayer of the applicant in the present case is for quashing the order dated 13.7.2000. Learned counsel for the applicant states that there is no order of 10.7.2000 as mentioned in Para 8(i) of the OA. For the reasons given above, I find no merit in this application as the request of the applicant for not being posted to CASD, Delhi Cantt. has already been accepted by the respondents by their Tele. Fax Message dated 2.8.2000.

7. In the result, the OA is disposed of as having become infructuous. In the circumstances of the case, parties to bear their own costs.


(Smt. Lakshmi Swaminathan)
Member (J)

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