

Central Administrative Tribunal, Principal Bench

Original Application No. 212 of 2000

New Delhi, this the 4th day of February, 2000

Hon'ble Mr. Kuldip Singh, Member (J)

Shri R.L. Kaul
Senior Finance & Accounts Officer,
Council of Scientific & Industrial Research
Rafi Marg, New Delhi. - Applicant

(By Advocate: Shri V.K. Aggarwal)

Versus

Union of India through
Director General, Council of Scientific
and Industrial Research, - Respondents
New Delhi.

(By Advocate - Shri Manoj Chatterjee)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this case has assailed the transfer order Annexure A-1 vide which the applicant has been transferred from New Delhi to Lucknow and he has also made an interim order that pending the OA, the operation of the impugned order be stayed.

2. The learned counsel appearing for the applicant submitted that respondents themselves had issued guidelines for transfer and according to which, a person having less than 3 years of service before superannuation, should not be transferred outside Delhi or he should be transferred to a place of his choice.

3. He further submitted that in this case the applicant has less than 3 years of service before superannuation, so he should not have been transferred and as such, the transfer order is against the transfer policy issued by the respondents themselves.

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4. While this case was being argued by the counsel for the applicant at the admission stage, Shri Manoj Chatterjee, Counsel accepted notice on behalf of the respondents and appeared for the respondents.

5. The learned counsel for the respondents submitted that as per the guidelines for transfer/posting, the relevant para 4 itself shows that a person having less than 3 years of service ordinarily should not be transferred and emphasised on the use of the words "as far as possible" the employee be retained at the same station, but in this case since the transfer order has been issued in public interest and in the exigency of service, so it is the Management right to transfer a particular employee and the applicant cannot challenge the impugned order of transfer.

6. He further submitted that in his entire OA the applicant has not alleged any ill-will or mala fides by superiors against him nor he has stated that this transfer order is motivated or it is in the garb of punishment order against the applicant so the OA itself should be dismissed at the stage of admission itself.

7. To my mind also since it is a well established law that an employee entering into service knows fully well that he can be transferred at any time and cannot challenge the transfer order unless he shows that the transfer order issued against him is issued with some

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malice towards him or has been passed with a view to punish him and if the transfer order is tainted in such like manner, only then such type of transfer can be challenged and quashed. Since in the entire OA except personal difficulties of the illness of the applicant or that he has no other relatives, no case has been made out that the transfer order in his case has been passed against him in any biased manner or which may show any ill-will or mala fides against him or it is by way of a punishment.

8. Since it is an established law that the Management has a right to transfer any employee to see that their administration runs smoothly and in best possible manner and it is the Management who has to choose which employee has to be kept at which place. In these circumstances, I am of the considered opinion that the OA is liable to be dismissed at the admission stage itself. Hence, it is dismissed at the admission stage itself.

No costs.


(Kuldip Singh)
Member (J)

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