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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of Decision: 3, 4, 92

DA 1606/89

JAI BHAGWAN ... APPLICANT.

Versus

THE ENGINEER-IN-CHIEF,
MILITARY ENGINEERING SERVICE,
MINISTRY OF DEFENCE,
NEW DELHI & OTHERS ... RESPONDENTS.

For the Applicant ... Self.

For the Respondents ... Mrs. Raj Kumari Chopra,
Counsel.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

The applicant, Jai Bhagwan is Superintendent B/R Grade-I, MES, Dehradun, has assailed the orders of his transfer dated 24.12.1988/25.3.1989/19.4.1989/24.5.1989 (Annexure A-1 to A-4 respectively). Thereby the applicant has been transferred from Dehradun to

Bihta near Patna in Bihar. The applicant has challenged this transfer to this tenure station on the ground that he has already completed his tenure at hard station at Talbehat and Pithora Garh. In view of this, according to the guidelines of postings at hard station, the applicant could not have been transferred once he has completed the full tenure period.

2. The respondents have disputed the contention of the applicant and in para-1 of their counter stated the guidelines, which are as follows :-

- (a) Volunteers, will be given preference.
- (b) Personnel who have not done service in a tenure station since joining the MES provided he has completed 3 years stay in a station.
- (c) Every individual nominated for service in the tenure station must complete his full tenure before posting back to one of his choice stations. For the purpose of determining the period of stay in a tenure station an individual must be physically present in that office for the full period of tenure except for the leave earned during that period. If, for reasons, due to illness or extreme compassionate grounds an individual is repatriated prior to completion of his tenure, he will again be nominated to tenure station after an expiry of three years

of service.

(d) Nomination of persons who have already done tenure will be done strictly on the basis of their last date of return from tenure stations.

(e) The normal age limit for tenure station posting is 50 years. Subordinates above 50 years may also be posted for a lesser tenure but none till be retained at a tenure station beyond the age of 53 years. Subordinates above 50 years of age will not be posted to show-bound areas and tenure stations where the tenure is 2 years. The age for such postings will be considered as on date of issue of postings by CE Commands.

3. It is further stated in the reply that the applicant was posted at Babina on 22.1.1964 and not to which Talbehat was declared tenure station with effect from 5.9.1967 and the individual then serving at Agra from 17.9.1966 to 19.2.1976. Further it is stated that the applicant served at Pithoragarh from 1.3.1976 to 15.3.1977 that is only for one year. In view of this, it is clear that the applicant has not completed his full tenure at that place.

4. The law has been clearly laid down in the case of UOI Vs. H.N. Kritania, Judgement Today 1991 (3) SC

Page 131 that the Central Government employee on transferable post cannot get any relief unless the transfer order is illegal on the ground of violation of statutory rules or on the ground of malafidees.

It has also been held that the guidelines cannot be ~~equated~~ with statutory rules, and the guidelines do not confer ~~create~~ any judicial right on the person to resist transfer order.

5. The applicant has been heard at length in person and none appeared for the respondents. Pleadings have been gone into minutely and the guideline has been seen from the record. It is evident that the applicant did not complete tenure posting period of 1/2 at hard station and so he cannot say that there is any breach of guideline.

6. In view of the above facts, the application being dismissed devoid of merit leaving the parties to bear their own costs.

J. P. SHARMA
3.4.95
(J.P. SHARMA)
MEMBER (J)