

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2593
T.A. No.

198

DATE OF DECISION 31/1/1990

Jagjit Singh _____ Applicant (s)

Shri V.P. Gupta _____ Advocate for the Applicant (s)

Versus
Union of India & Others _____ Respondent (s)

Smt. Raj Kumari Chopra _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. To be circulated to all Benches of the Tribunal ? No

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. I.K. Rasgotra,
Member (A)

The applicant has filed this application against the impugned order of the Chief Engineer (Headquarters) posting him to Meerut although his first option for posting after completing his tenure at a hard station was Delhi. The facts of the case are that the applicant is an officer of the Military Engineering Service and was last posted under Chief Engineer, Shillong Zone, Shillong on 17.2.1987. He contends that on completion of his tenure in the North-East region he should have been posted to a station of his choice in terms of Ministry of Finance's OM No. 20014/3/83-E-IV dated 14.12.1983, circulated by the Ministry of Defence under their OM dated 11.1.1984. The applicant in this

connection has referred to the policy laid down by the Army Headquarters, Engineer-in-Chief's Branch reproduced below:-

"Hard Semi Hard Stations

A list of hard and semi hard station is at Appendix 'B'.

A tenure at hard station will generally be two years (this will be counted as physical service in station) and three in semi-hard stations. An officer will have an option to give three choice stations for posting back from hard station only. The station from where the officer had moved to hard station will not be included in the choice stations."

He has contended that this policy is in violation of the instruction issued by the Ministry of Finance as circulated under the Ministry of Defence's OM No. 4(19)83-D(Civ I) dated 11.1.1984.

The applicant's grievance is that he had given his choice for posting back to Delhi on completion of his tenure posting in the requisite proforma. The reason for seeking posting back to Delhi from where he was transferred to Shillong was that his wife was employed as Trained Graduate Teacher in Delhi Administration. His request, however, has not been acceded to. The applicant appealed to the Engineer-in-Chief for consideration of his posting to Delhi on the said ground and also submitted his willingness to be considered, if otherwise not possible, on compassionate grounds for posting in Delhi. The appeal, however, was rejected as the reasons for the request were not considered genuine.

2. The case was heard by a single Member Bench on 18.1.1990, when the admission was opposed by the Lt. Counsel for the respondents on the ground that the applicant has no legal right to be posted to a particular station and that in any case he has been posted to one of the three choices given by him in

accordance with the policy of the Engineer-in-Chief's Branch. The OA was, therefore, listed before this Bench on 19.1.1990 for directions on admission. We heard the Ld. Counsel of both the parties. The main argument of the Ld. Counsel for the respondents is that the applicant had given three stations of his choice for posting on completion of his tenure in the North-East. They are:

- (a) Delhi
- (b) Gurgaon
- (c) Meerut

As far as posting in Delhi is concerned, the applicant was well aware that he could not be considered for posting back in Delhi as that was the place from where he was transferred to Shillong. Again the second station of his choice has no office where he can be posted. The only choice made by him for his posting was therefore Meerut which was conceded by the Administration. The Ld. Counsel for the respondents further maintained that Meerut in any case was the closest possible station to Delhi and the applicant should have no grievance at being posted there.

3. We have considered the arguments of the Ld. Counsel of both the parties and gone through the records very carefully. As far as the posting of the applicant to Meerut is concerned, it is in accordance with the policy as being followed in the Engineer-in-Chief's Branch, Army Hqrs. We also find that the Ministry of Finance's OM dated 14.12.1983 as circulated by the Ministry of Defence on 11.1.1984 (page 18 of the paper book) does not give any inflexible instruction that the officers on repatriation from North-East on completion of 2-3 years tenure, must be posted to a station of their choice. In fact, the relevant portion in the OM reads:

"Officers on completion of the fixed tenure for service mentioned above may be considered for posting to a station of their choice as far as possible".

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The applicant's contention, therefore, is no sustainable on this ground. The further instructions referred to in Annexure-III (page 16 of the paper book) relate specifically to the postings in tribal area and therefore do not cover the present case.

4. Although the intent of the government's instructions is to show maximum consideration to the officers who complete a tenure in the North-East, in finding a placement for them, at a station of their choice, it may not always be possible to accede to such requests. We, therefore, hold that the policy framed in the Engineer-in-Chief's Branch generally is in line with the instructions issued by the Government of India (page 18 of the paper book).

5. We, however, observe that the policy framed by the Engineer-in-Chief's Branch, Army Headquarters needs review and revision in the context of Ministry of Personnel, P.G. & Pensions (Department of Personnel & Training)'s OM No. 28034/7/86-Estt(A) dated 3.4.1986 laying down guidelines for postings of husband and wife at same station to secure the enhancement of women's status in all sectors and all walks of life. The relevant portion of the OM is reproduced below:

".....

At the outset, it may be clarified that it may not be possible to bring every category of employees within the ambit of this policy as situations of husband/wife employment are varied and manifold. The guidelines given below are, therefore, illustrative and not exhaustive. Government desire that in all other cases the Cadre controlling authority should consider such requests with utmost sympathy."

"4 (i)...

(ii).....

(vii) Where one spouse is employed under the Central

Government and the other spouse is employed under the State Government.

The spouse employed under the Central Government may apply to the competent authority and the competent authority may post the said officer to the station, or if there is no post in that station, to the State where the other spouse is posted."

We, therefore, direct that the policy as laid down in the Engineer-in-Chief's Branch may be reconsidered and amended suitably in the context of the above said OM. We further direct that the case of the applicant may be considered sympathetically in the context of the revised policy as above.

6. The OA is disposed of as above at the admission stage itself with no orders to the costs.

De Lingle
(I.K. Rasgotra)
Member (A) 31/1/90

Oberoi
31.1.90
(T.S. Oberoi)
(Member (J))