

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGD. No. OA 1405/88

Date of Decision: 11.10.1988.

Shri K.L. Rehani

..... Applicant.

Vs.

Union of India

..... Respondents

For the Applicant

.....

In person

For the Respondents

.....

Shri P.H. Ramchandani
Sr. Counsel.

(Judgement of the Bench delivered by Hon'ble
Shri B.C. Mathur, Vice Chairman)

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This is an application under Section 19 of the Administrative Tribunals Act against the transfer order of the applicant from Delhi to Chandigarh. The applicant has been working as Assistant Registrar in the Income Tax Appellate Tribunal prior to impugned transfer to Chandigarh against which he has sought the relief. His main grounds for getting the order of transfer quashed are that there is no transfer policy in the Tribunal and his wife is serving in Delhi Administrative as Teacher. Under the guidelines of the Government of India, husband and wife should be posted at same station. He has also stated that his wife is suffering from night-blindness and she cannot move alone at night. He has also pointed out some discriminations as a number of persons have been staying in Delhi for a longer period and have not been disturbed like the applicant. This case was originally heard by a Division Bench of this Tribunal which passed an order in O.A. No. 717/88. In that order the Tribunal sent the case back to the President of Income Tax Appellate Tribunal to take all these facts into consideration and dispose of the

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representation of the applicant. The President of the ITAT was asked to take a decision within two weeks. The President examined the case and passed an order on 20th July, 1988 wherein he has considered the representation of the applicant including the night-blindness of his wife which was not mentioned in his earlier representation. He has stated that the applicant was transferred to Chandigarh in the exigencies of work and there was at present no vacancy of Assistant Registrar in Delhi and all the posts in Delhi have been filled up. He has, however, mentioned in his order that his request will be kept in view and considered sympathetically as and when occasion arises in future.

2. The applicant has pointed out that the question of discrimination has not been taken into consideration while passing the order dated 20th July 1988 and he cannot understand why his request for posting in Delhi is not being acceded to. He feels that if the President wants to help him, it can be done easily.

3. Learned counsel for the respondents has pointed out that there is no violation of any legal right of the applicant and as such the Tribunal cannot interfere in the transfer order which is an incident of service. He also states that the President of the ITAT is willing to consider his case and he actually permitted the applicant to take charge of the post of Assistant Registrar Chandigarh at Delhi. Shri Ramchandani has given an assurance that the President is willing to help the applicant and give him all consideration including allowing tour from Chandigarh to Delhi. There is no doubt that the applicant deserves all sympathy. His

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wife is suffering from night-blindness and requires a person near her. The applicant has also raised a point that he has only 2½ years to retire and under the recommendation of the 4th Pay Commission, a person who has normally less than 3 years to retire should be posted to his home-town. The applicant states that Delhi is his home-town. The recommendation of the 4th Pay Commission has, however, not been accepted by the Government. The learned Sr. Counsel for the respondents has also refuted that the home town of the applicant is Delhi. However, the applicant in view of the circumstances stated above does deserve sympathetic consideration.

4. The question is whether the Tribunal should interfere in the transfer order or leave the matter to the President of ITAT who may try to adjust the applicant at Delhi. The President has himself mentioned that the case of the applicant will be considered sympathetically as and when occasion arises. I hope that this will be done. Since no legal point is involved. I hold that the Court may not interfere in this matter and leave it to the President of the ITAT to take action as he thinks best in the circumstances.

The application is disposed of accordingly.



(B.C. MATHUR)
VICE CHAIRMAN

Dated: 11.10.1988.