

Reserved on 17.12.2020

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Allahabad, this the **04th** day of **January**, 2021

Hon'ble Mrs. Justice Vijay Lakshmi, Member-J
Hon'ble Mr. Devendra Chaudhry, Member-A

Original Application No. 330/00761/2020

MES No. 283107, Monu Pal, aged about 27 years, S/o Shri Jay Prakash Pal,
R/o House No. 501/2, South Camp, Happy Home, Bamrauli, Prayagraj-
211012.

.....Applicant.

By Advocates – **Shri L.M. Singh**
Shri M.K. Yadav

V E R S U S

1. Union of India, through the Secretary, Ministry of Defence, New Delhi-110001.
2. The Director General (Pers), E1C(1), Military Engineering Services, IHQ of MoD (Army), Engineer-in-Chiefs Branch, Kashmiri House, New Delhi-110011.
3. The Chief Engineer, Eastern Command, Headquarter, Fort William, Kolkata. Pin-908542, C/o 99 APO.
4. The Chief Engineer, Central Command, Headquarter, Lucknow. Pin-900450, C/o 56 APO.

.....Respondents.

By Advocate: **Shri Chakrapani Vatsyayan**

O R D E R

Delivered By Hon'ble Mr. Devendra Chaudhry, A.M:

Both Members of this Division Bench have joined online through
Virtual Conferencing facility.

2. S/Shri L.M. Singh, M.K. Yadav, learned counsels for the applicant and Shri M.K. Sharma, holding brief of Shri Chakrapani Vatsyayan, learned counsel for the respondents, both are present in Court. With the consent of the ld counsels, the OA is being decided finally at the admission stage as, apart from the ld applicant counsel, the ld respondent counsel is ready to submit his arguments at admission stage itself on advance notice. Accordingly, we are proceeding to decide the OA at the admission stage itself.

3. The instant OA has been filed with the prayer for quashing of the impugned transfer order dated 28.08.2020 (Annexure A-1) passed by the respondent No. 3. *Per* the applicant, facts of the case, in brief, are that he was initially selected through Staff Selection Commission, Allahabad for the post of Lower Division Clerk (LDC) in MES and following appointment was posted under Chief Engineer, Air Force, Eastern Command, Shillong Zone vide appointment order dated 15.01.2014. That after completion of 3 years of his Tenure Posting (Hard Station) i.e. office of the Chief Engineer, Air Force, Shillong Zone, the applicant requested for compassionate posting on account of his family compulsions which was acceded to and he was accordingly posted to the office of CWE (AF), Bamrauli, Allahabad vide order dated 09.02.2017. The applicant joined at Bamrauli, Allahabad on 20.03.2017. That, the transfer from hard station i.e. Shillong Zone to Allahabad (peace station) cannot be considered as a pure Tenure-to-Peace transfer as it has been done on compassionate grounds which is a distinctly different category as per transfer guidelines dated 18.02.2019. Therefore, the period of posting at Allahabad on compassionate ground may not be taken

into consideration as posting from tenure to peace station or peace station at all. However, the respondents have taken it as Peace Station posting in passing the impugned posting order which is a violation of the guidelines.

Other grounds for quashing of the impugned order are:

- i. That there should be at least 10 years gap in the cases of tenure posting (Hard Station Posting) which is not complete in case of applicant and hence he is not due for transfer.
- ii. That as per para-6(xvii) of Guidelines, the applicant has submitted representation praying for cancellation of the transfer order on grounds of violation of guidelines as also personal problems of health related to his ailing father. Further that the transfer will deprive him of the opportunity to write the CGL examination, achievement of which is an important career milestone for him
- iii. That the applicant has been discriminated against as his name appears at serial No. 20 of the list in the present unit on 20.03.2017) and recommended for Peace to Tenure station transfer, whereas in case of one Mr. Daljit Singh who joined earlier to the applicant viz on 22.01.2017 is shown at serial No. 29 implying thereby that Mr Daljit Singh is given a lesser seniority than applicant in spite of his earlier joining and if the station seniority is correctly assessed, he would be at higher serial than applicant for consideration of transfer. Further inspite of this he has been transferred from Peace-to-Peace station whereas applicant has been transferred from Peace-to-Tenure station.

That while transfer policies are only guidelines without having any statutory force and normally the Court does not interfere in transfer orders, however, it is settled in a catena of cases that the guidelines/policies are having statutory effect for the departmental authorities. The Hon'ble High Court, Allahabad in the case of Akash Sharma v. State of U.P. reported in 2007 (3) ESC 1730 (ALL) directed the government to comply with transfer policy in toto. And since the respondents have not taken any decision on his pending representation 24.09.2020; hence this O.A.

4. *Per contra*, the ld respondent counsel has argued at the admission stage on advance notice, that the plea of the applicant is not maintainable as para 5 (iii) (g) of the transfer guidelines dated 18.02.2019 (hereinafter referred to as 'transfer guidelines 2019') because the said para does allow for personnel having less than 10 years of service also to be transferred. Further that, (i) the guidelines permit not more than 03 years of posting at choice of posting on compassionate grounds as per para 5B of transfer guidelines, (ii) while the employees do have a choice of posting twice but the second choice is only if one foregoes one's right for choice posting in last leg of posting which the applicant has not done as per para 5B (ii) (a). That as per guidelines filed by the applicant itself, the category of postings specified in the schedule of classification of each post (page 45 of OA), the classification specifies Tenure/Hard station only and all other unspecified stations are Peace stations and so there is no separate classification of a Peace station and a Compassionate posting station. Therefore, the contention of the applicant that his current posting cannot be classified as Peace station posting is absurd

and misleading. Accordingly, on the aforesaid grounds, the OA is not worthy of consideration and should be therefore dismissed.

5. We have heard the learned counsels for both the parties at length and perused the PDF records assiduously.

6. The key issue which falls for consideration is the legality of the transfer order as per the guidelines issued by the respondents, *inter alia* namely:

- i. His posting from Shillong to Allahabad cannot be counted as a posting to a peace station as it was done on compassionate grounds
- ii. That he has been transferred prematurely and is not due for transfer
- iii. That he has been discriminated against and there are personal hardships relating to his family and career

7. In order to decide on this, it would be best that the concerned relevant paras of the guidelines are examined. Accordingly, the same are extracted below for ready reference:

Transfer guidelines dated 18.02.2019

Paragraphs No. 3, 4:

“ 3. **TYPE OF POSTING TRANSFER:** -

Thus following contingencies warrant transfer of personnel from one place to another: -

- (i) *Peace to Tenure/Field*
- (ii) *Tenure/Field to Peace.*
- (iii) *Compassionate Grounds.*
- (iv) *Local Turn Over.*
- (v) *Promotions.*
- (vi) *Adjustments of surplus/deficiency including case of raising/ disbandment of unit/formation.*
- (vii) *Mutual request.”*

“ 4. **TIME OF POSTING:** -

Care will be taken to ensure that transfers during the middle of the academic year are avoided as far as possible. Exception will be only to meet an emergent requirement in the exigencies of service. It will be desirable to give two months time in the posting order for completion of the move to enable an individual to sort out his personal administration. Schedule for the bulk posting will be as under: -

(i)	Peace to Tenure/field stations/complexes	Jan/Feb
(ii)	Tenure/Field to Peace stations/complexes	Jan/Feb
(iii)	Compassionate Grounds	Feb/Mar
(iv)	Local Turn Over	May/Jun
(v)	Mutual Transfer	Mar/Apr
(vi)	Adjustment of surplus/deficiency including case of raising/disbandment of unit/formation	Mar/Apr
(vii)	Promotions	As & when DPCs are completed.

Para-5

“ 5. DEFINITIONS AND MODALITIES OF VARIOUS TYPES OF POSTINGS

Para-5A

(A) PEACE TO TENURE & TENURE TO PEACE: -

- (i) Every command has number of stations termed as Tenure/Field station, due to peculiarities of remote geographical locations, harsh climatic conditions, security situations, poor amenities and lack of availability of local manpower. The job requirement dictates that these stations/complexes must be manned upto a certain optimum level thus necessitating posting of subordinates staff upto **satisfactionLevel (as derived in Para 2)**, from within the formations under the Command to ensure smooth functioning of these stations/complexes. The tenure service is mandatory and each individual is required to fulfil his tenure liability, as per his seniority in the peace stations/complexes (i.e., non tenure stations).
- (ii) On completion of the stipulated period at tenure stations/complexes, individuals are required to be repatriated to one of their three choice stations/complexes as far as possible and are required to be replaced by individuals due for their tenure liability. Thus a chain of posting is set into motion based on the choices and the tenure service seniority of the individuals.
- (iii) **Tenure Posts**
 - (a) Tenure stations are those where facilities / basic amenities are lacking. Each Command has its own tenure stations

The list of hard stations and tenure stations are attached at Appx'A'. For addition or deletion of any station as hard/tenure station a fresh SOC and Board Proceedings duly recommended by CE Command will be fwd for approval of the E-in-C

.....
 (g) *The normal period of tenure station /complex notified by govt of India and hard stations/Complexes designated by E-in-C's Branch/CE Command will be three years for individuals with service of **ten years or less** and two years for those with service of more than ten years..."*

Para-5B

(B) COMPASSIONATE GROUNDS: -

- (i) *The compassionate postings are affected on Humanitarian/Medical grounds/Spouse grounds against existing vacancies within the Command as well as Inter Command.*
- (ii) *The following guidelines for compassionate posting on Humanitarian/Medical/Last leg/Spouse grounds will be followed: -*
 - (a) *Individual may themselves apply for compassionate postings after completion of six months of physical stay in present station/ complex through proper channel. Applications from relatives or those received directly will be rejected and attempts to bring outside pressure will be discouraged. **The compassionate postings will be for a maximum period of three years and two such compassionate postings can be allowed in total service including one in lieu of last leg posting, forgoing right to avail last leg posting. The period of compassionate posting will be specified in the posting order.***
 - (b) *Applications on domestic grounds shall be verified, in consultation with civil authorities, if the CWE/CE Zone is not satisfied regarding genuineness of the case.*
 - (c) *Applications on medical grounds need to be accompanied by appropriate **"Govt Hospital/CGHS/CGHS approved Hospital"** indicating the nature of illness and justification for posting of the individual.*
 - (d) *A Board at Command level will be convened which will assemble every six months in January and July to screen the requests for posting on compassionate grounds. In case affected persons are due for tenure/complex, extra scrutiny will be done to avoid misuse of provision (compassionate posting) by unscrupulous persons.*
 - (e) *All postings on compassionate grounds will normally will be ordered to a non-sensitive appointment only. Validity of cases once approved by the compassionate Board will remain for one year. In case the individual is not posted to his choice station/complex during the period he/she is required to forward an application for revival of his/her claim on expiry of the validity of the Board. If the revival applications are not received, the name of such individual included in the Compassionate Board will be deleted from the list.*
 - (f) *Last leg posting may be given to the individuals for tenure of three years in or near their home town or place of individual's choice to help them in taking care of family/settlement problems, depending upon availability of*

vacancy at that point of time. An individual having less than four years of remaining service can initiate a request for last leg posting, subject to availability of suitable post in the station of choice. Indl will not be given last leg posting in the same station in which he is working.

- (g) In case of Inter Command posting of personnel seeking to go outside, the Command deficiency will be kept in sight while considering such cases.*
- (h) Home town may be given to individuals on compassionate grounds but at non-sensitive appointment only. However, in case of non-availability of vacancy at non-sensitive appointment of choice station, individual may be posted on sensitive appointment and reason for the same will be kept on record.”*

Circular dated 28.08.2020

Para-3

“..3. All OC unit will prep and fwd the nominal roll of affected pers for TTP Jun 2020 (as per appx ‘B’ to policy letter under ref) duly signed by the indl directly to this HQ along with following info by at the earliest but laer than 30 Sep 2020: -

<i>(a)</i>	<i>For tenure to peace complex</i>	<i>Three choices of peace complexes of different zones.</i>
<i>(b)</i>	<i>For peace to tenure complex</i>	<i>Three choices of tenure complexes of different zones.</i>
<i>(c)</i>	<i>For peace to peace complex</i>	<i>Three choices of Peace complexes of different Zones.</i>
<i>(d)</i>	<i>For volunteers for tenure complex serving in peace complex (who are not due as per seniority list)</i>	<i>Willingness certificate</i>
<i>(e)</i>	<i>For volunteers for tenure complex to tenure complex</i>	<i>Willingness certificate.</i>

Para-8

“8. It should be info to affected indls that the mere indication of choices would not confer any right to get posted to those stations/complexes only. Organizational recruitment would be the paramount. Organizational recruitment also includes maintaining and holding as per CML and requirement of ensuring balanced service profile and training in higher offices for specialized and high value works/contract/management of human resources and sensitive/non-sensitive appts held and requirement of rotation in such appts. In the event of more than one indl of a unit is due for posting, posting will be issued for only such number of indls as per administrative exigencies so as to ensure smooth working environment.”

8. As is quite plain from a careful examination of above guidelines, the para-3 of the transfer guidelines 2019, prescribes 07 types of reasons for posting, the classification of posts per se as per APPENDIX-A to the

guidelines (page-45 of OA) referred to in 5A(iii) (a) specifies only list of hard/tenure stations. Thus there is no classification of 07 types of posts, that is to say that there is classification of only two at best 03 types – tenure, hard, tenure/hard. The chart of all the posts filed by the applicant makes this clear on the face of it itself. Thus, the plea of the applicant that his posting from Shillong, a hard / tenure station to Bamrauli, Allahabad cannot be classified as Peace station is misplaced as there is no separate classification of a Peace post as against a Compassionate post. The problem is that the applicant has confused on the reasons for a concession in a posting to the type of posting. The fact is that while 07 reasons could exist for a transfer, the type of posts are only not more than three as is clear from the list of classification. Therefore, the contention of the applicant that the transfer has violated the classification norms is not justifiable and we agree with the ld respondent counsel on this that the applicant's case for misleading classification of a Peace vs Compassionate post which are non-existent as per transfer guidelines 2019 is not sustainable. Hence on the basis of the basis of above reasoning the transfer order cannot be held as violative of the guidelines.

9. The next contention of the applicant that, he has not completed 10 years of service having been appointed only in 2014 and been posted only in 2017 at Allahabad is straight away not worth holding forth for the simple reason that para 5A(iii) (g) clearly allows transfer of employees less than 10 years inasmuch as it states that *the normal period of tenure station /complex notified by govt of India and hard stations/Complexes designated by E-in-C's Branch/CE Command will be three years for individuals with service*

of ten years or less and two years for those with service of more than ten years. Hence it is abundantly clear that employees with less than 10 years of service can also be transferred to a tenure/hard station. Further the applicant has enjoyed three years of posting admittedly at his choice place and so there can be no reason why the respondents should be forced to continue him for another indefinite number of years. The other related contention of the applicant two chances are available for choice posting does not hold much water for the simple reason that as argued by the Id respondent counsel, (i) first of all just because the choice is available, it does not mean that the respondents have to grant the same, given the fact that the whole career of the applicant is left, ie he has put in barely six years of service, (ii) the choice can be exercised only twice in the entire life time only and since he has already exercised once, and the second can be exercised only when he foregoes compassionate choice in last leg of posting (that is last leg of his entire career) as per para 5B (ii) (a) which has not been done and (iii) now once the transfer has taken place retrospective action/choice is a colorable exercise of benefit given to an employee in all *bona fide*. Hence the plea cannot be accepted on this ground also. Therefore, the contention of the applicant that he has been prematurely transferred is frivolous and **creation ex nihilo**.

10. The next contention of the applicant is that he has been discriminated against. On this issue, the applicant has quoted wrong serial listing as per his seniority vis-à-vis another employee. On this point it needs to be noted that first of all, an examination of the list reveals several employees of varying seniority under transfer and there is no apparent case of discrimination cause

by any, and secondly, if there is malafide in context of another employee then the concerned employee should have been arrayed as a respondent private party to enable the principle of *audi alteram partem* to come into play and then the concerned employee would have presented his case. However, the same has not been done and so this plea falls. It also falls on the ground that just because the concerned has been transferred from a Peace to Peace station does not also entitle transfer of the applicant also from Peace to Peace because (a) the applicant has already enjoyed a Peace station posting for three years as already discussed earlier, (b) postings of an employee can take place from Peace to Tenure/Hard /Peace and vice versa as per the 2019 transfer guidelines as also the circular dated 28th August 2020, (c) the concerned employee has also been transferred albeit to another Peace station, so it is not a case where he has not been transferred and the applicant has been discriminated against on account of the impugned transfer. Therefore, this contention of the applicant also falls by the wayside.

11. Finally, the applicant has contended that his case needs to be considered on grounds of health issues of his ailing father and career advancement opportunities inasmuch that he is writing the CGL examination. As regards the said CGL examination it is not clear whether it is a departmental examination and if so, how is the applicant going to be deprived of in the new place of posting of the said examination. If on the other hand, it is a personal qualification, it is not clear how the opportunity is lost in new place of posting. In any case of pursuit of personal qualifications whatever that may be cannot be held superior to the administrative work needs of an employer. Further it is stated that the examination for the said

CGL exam was to be held in May 2020 (Ground -E in the OA, page-16) which time is well past when the hearing was held on the OA in December 2020. Hence on these grounds the plea of career advancement is patently specious and needs to be trashed in the least. As regards the personal problems, there is a catena of judgments which clearly lay down the law by none other than the Hon Apex Court that transfer is an incidence of service and so there can be recourse to interference on such grounds. We shall shortly elaborate on this point very quickly. But for now, the personal family issues as presented cannot be a worthy ground for consideration of interference in the impugned transfer.

12. We now take up the citation by the ld applicant counsel in the matter of Akash Sharma vs State of UP in the Hon High Court Allahabad which vide judgement dated 09th May 2007 had the occasion to examine a transfer order for its violation of the transfer guidelines. The said citation does not fit here as in the first place the concerned petitioner's order of transfer was itself cancelled by the state government even before the same could be taken up in the final judgement stage by the High Court and secondly, in the present instance there is no discernible violation of the transfer guidelines by the respondents so the applicant cannot take shelter of the said citation. On the other hand we would just wish to cite that first of all, any transfer policy is an executive instruction *ab initio ipso facto* and is not a statutory subordinate legislation. Therefore, a transfer policy guideline can, therefore, not acquire the authority of the statutory rules because the rules cannot be amended by executive orders and a transfer policy can be amended and is amended from time to time by the executive authority. This is fortified in the matter of **K.A.**

Nagamani v. Indian Airlines, 2009 (5) SCC 550 in which it has been held that

*“...mere administrative rules are not legislation of any kind. They are in the nature of statements of policy and the practice of government departments, statutory authorities, whether published or otherwise. Statutory rules, which are made under the provisions of any enactment and regulations, subject to Parliamentary approval stand on entirely different footing. The administrative rules are always considered and have repeatedly been held to be rules of administrative practice merely, not rules of law and not delegated legislation and they have no statutory force. **Mere description of such rules of administrative practice as "rules" does not make them to be statutory rules. Such administrative rules can be modified, amended or consolidated by the authorities without following any particular procedure**(emphasis supplied). There are no legal restrictions to do so as long as they do not offend the provisions of the Constitution or statutes or statutory rules as the case may be.,”*

13. In fact, it has also been held quite clearly in the matter of **Ajaya Kumar Das v. State of Orissa, 2011 (11) SCC 136** that whatever may be the efficacy of the executive orders or circulars or instructions, statutory rules cannot be altered or amended by executive orders or circulars or instructions nor can they replace the statutory rules. Such being the distinction between rules and executive instructions, it is quite clear that the impugned transfer orders are at best by way of executive instructions, which can be amended from time to time by competent executive authority who need not to refer the legislature for framing Transfer Policy or any such authority which concerns Rule making power required under the Constitution such as w.r.t. conditions of the service of the applicant. Thus, the plea that the impugned transfer orders are statutory rules and regulations to be followed at the pain of disregard to the Constitution or the Legislature or such Rule making body is not tenable. In fact, the transfer orders are executive instructions and source of guidance only in view of the several Apex court rulings as we analyse herein below.

14. It would be well to begin this interesting task by appreciating that the whole business of transfer, based on the universe of rulings on the matter, can be looked at from some key view-points namely (i) nature of Transfer (ii) competent authority issuing the order (iii) rights of the concerned public servant or employee against a said transfer (iv) transfer as being exigencies of service, (v) transfer on grounds of malafide / by way of punishment / victimization/ with malice etc., (vi) representations challenging transfers (vii) issues of natural justice (viii) protection under Article 14 and 16 of the Constitution (ix) nature and force of transfer Guidelines/Instructions (x) Consequences of non-compliance with transfer order and (xi) interferences of the Courts in the matter of transfers

15. With respect to the nature of transfer, it is laid down again and again that the transfer is always understood and construed as incident of service **(B.Varadha Rao v. State of Karnataka, 1986 (4) SCC 624.** That, transfer is not a change in the conditions of service and it is to be well understood that the transfer of a government servant who is appointed at a particular cadre of transferable posts from one place to other place is an ordinary incident of service and therefore, does not result in any alternation of any of the condition of service to government servant's disadvantage.

16. Similarly, in the matter of **Gujrat Electricity Board v. Atamaram Sungomal Poshani, 1989 (2) SCC 602,** it has been held that

“.....Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification, or cancellation of the transfer order. If the order of transfer is not stayed, modified, or cancelled the concerned public servant must carry out the order of transfer. If he fails to proceed on transfer in compliance to the transfer order, he would

expose himself to disciplinary action under the relevant Rules (emphasis supplied), *as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other..”*

This position is further buttressed by another bunch of rulings concerning the transfer as an exigency of service. These include: **T.D. Subramanian v. Union of India, 1981 (4) SCC 150** and **Laxmi Narain Mehar v. Union of India, AIR 1997 SC 1347**.

17. As regards humanitarian grounds we would cite the recent Division Bench judgment of the **Hon High Court Allahabad** wherein the order passed by the single judge in **Writ A No. 4226 of 2020** staying the transfer on humanitarian grounds, has been set aside in this special appeal by the DB comprising the Hon Chief Justice and it has been observed on the aspect of humanitarian grounds in the order dated 01.09.2020 that:

“.. yet for reasons best known to him, his wife joined a two year Post Graduate course at Gorakhpur in that year itself. Perhaps it is only upon the respondent-petitioner’s wife having joined the Post Graduate course that he made the representation seeking accommodation.

9. For the reasons noted above, present special appeal is allowed. The order dated 08.07.2020 passed by the learned Single Judge is set aside and the writ petition is dismissed...”

As Aristotle once famously said –“law is reason free from passion”. Thus we cannot allow ourselves to be swayed by emotional appeals of the applicant with regards to his plea of humanitarian grounds without much substance.

18. On the issue of transfer violating Constitutional rights under Article 14 and 16, it has also been held in the matter of **E.P. Royappa v. State of Tamil Nadu, 1974 (4) SCC 3** that so long as the transfer has been made on

account of exigencies of administration it would not be open to attract under Article 14 and 16. In fact, in the matter of **Sreedam Chandra Ghosh v State of Assam, 1996 (10) SCC 567**, it has been held that when the Government views non-compliance of the transfer order as a serious indiscipline on the part of the erring officers and when the person complains of the non-compliance to the court, **the court necessarily have to give effect to the order and give directions from enforcement thereof** (emphasis supplied). **Even dismissal on account of refusal to join at the place of transfer has been held valid as State of Punjab v Baldev Singh, Conductor, 1998 (9) SCC 325**(emphasis supplied).

19. As regards interference of the Courts in the matter of transfer, it is trite to observe that the Hon Apex Court has consistently frowned upon stays granted by lower courts. Here also there is a bunch of rulings on the matter such as in the matter of **Shanti Kumari v Regional Deputy Director, Health Services, Patna, 1981 SCC (L & S) 285, Union of India v. H.N. Kirtania, 1989 (3) SCC 447 etc.** In fact to go a step further, the courts have been advised not to interfere with the matter of transfer **even in the writ jurisdiction - State of Punjab v. Joginder Singh Dhatt, AIR 1993 SC 2486** and also on administrative grounds as in the matter of **State of M.P. v. S SKourav, 1995 (3) SCC 270, Union of India v. Ganesh Dass Singh, 1995 SCC (L&S) 1142 etc.**

20. Thus, as it may be seen that while few judgments do exist and cited w.r.t. interference by the courts in the matter of transfer on the grounds of malice and competent authority, since no such grounds exist in the present case, we cannot give the benefit to the applicant w.r.t. them. The

comprehensive analysis heretofore qua the rulings of the Hon'ble Apex Court and various courts weigh heavily in, in the favour of non-interference in transfer matters except in very exceptional circumstances. Here we do not find the same as analysed above in sufficient detail. Hence, we find it difficult to interfere with the impugned transfer orders. We quote the famous **Sir H.J. Kania (1890-1951), the 4th Chief Justice of the Federal Court of India** which functioned as the highest court of the land till the Supreme Court was established on 28th January 1950 wherein he continued as the first CJI. He has said that **“No man is above the law. And no man below it; nor do we ask any man's permission when we ask him to obey it..”**

21. In conclusion, therefore, after covering the length and breadth as well as depth of the incisive arguments as well as due respect to the rulings cited by the Ld applicant counsel, we cannot but conclude that there are no cogent grounds available to interfere with the impugned transfer orders. Therefore, relief sought is liable to fail and fails. Original Application is accordingly dismissed.

22. No costs.

(Devendra Chaudhry)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

/M.M/