

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/397/2020

Jabalpur, this Tuesday, the 11th day of August, 2020

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Kamleshwar Sharan, S/o Shri Jagarnath Prasad,
Aged about 50 years, Occupation: Assistant Engineer
(Quality Assurance), SQAE (A) & LPR, Khamariya,
Jabalpur, R/o H.No. 227, Maa Narmade Nagar,
Bilhari, Jabalpur(M.P.)-482020

-Applicant

(By Advocate –**Shri S. Ganguly**)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Defence, Department of Defence,
Production, South Block, New Delhi-110001

2. ADGQA(A), Directorate of Quality Assurance (Arms)
Nirman Bhawan, New Delhi 110011

3. The Commandant, QA & Proof, SQAE (A)
& LPR, Khamariya, Jabalpur (MP)-482005

- Respondents

(By Advocate –**Shri S.P. Singh**)

O R D E R(ORAL)

By Ramesh Singh Thakur, JM:-

Heard.

2. This application has been filed against the order dated 10.07.2020 passed by respondent No.2, whereby as per Annexure A-1 dated 10.07.2020 the applicant has been

transferred from SQAE (A) & LPR Khamariya to CQA (A) Kirkee.

3. It has been submitted by the applicant that the applicant was transferred on 10.07.2020 whereas as per Annexure A-2, the option was called for by the respondent department. The applicant has exercised and has given the option for three stations which is clear as per Annexure A-3. It has been specifically submitted by the counsel for the applicant that all the three stations namely Itarsi, Varangaon & Chanda are the hard stations. It has been further submitted by the counsel for the applicant that the respondent department has not considered the option given by the applicant and now he has been transferred to Kirki in Pune. Learned counsel for the applicant attracted out attention to Annexure A-4 especially to clause 9 which is 'Preference for posting'.

4. The counsel for the applicant submits that the applicant has opted for hard stations and such option should have been considered first but the respondent department has not made this effort.

5. It has been further submitted by the counsel for the applicant that representation Annexure A-6 & A-7 were made to the competent authority, but no reasons has been given by



the respondent department. Further representation dated 24.07.2020 has been made by the applicant vide Annexure A-8, which is pending with the competent authority.

6. Counsel for the respondents submits that it is the prerogative of the State/employer to transfer persons to any place and the said transfer could not be challenged except on the grounds of consideration.



7. At this stage counsel for the applicant submits that the applicant will be satisfied if the respondents are directed to decide the representation Annexure A-8 in a time bound manner.

8. We have considered the matter.

9. It is admitted fact that the posting/transfer is a prerogative of the employer but at the same time the respondent department has framed the policy which is Annexure A-4 and it is incumbent upon the respondents to implement the same properly. The relevant Para relied by the applicant is in Para 9 of Annexure A-4 under the title 'Preference for Posting'.

“(c) For posting to a hard station, officials opting for that station, if any, will be considered first. If adequate number of officials opting for posting to hard station does not become available, posting to hard station will be considered by the Committee amongst the other available officials.”

10. In addition to above the applicant has also submitted in the pleadings that the parents of the applicant are of 87 and 82 years of age and the children are small. It has been further indicated in the pleadings that due to Covid-19 Pandemic there are chances that during the travelling or being transferred there may be some infections to the family members.



11. In view of the situation that the representation is pending and as per Annexure A-4 the respondents are duty bound to strict to their policy especially when the applicant has given three options that too for all hard stations we are unable to understand that the person who has given option of three stations which are hard stations and has not been considered the option.

12. In view of such situation, we direct the respondents to decide the representation Annexure A-8 within a period of four weeks after receiving the order of this Tribunal.

13. Needless to say that the representation shall be decided by speaking and reasoned order and all the contentions raised in the O.A. shall also be met with.

14. The applicant is directed to make available the copy of Original Application and also the order of this Tribunal to the competent authority.

15. In the meanwhile, the respondents are directed not to implement the transfer order qua the applicant.

With these observations, this Original Application is finally disposed of at the admission stage itself.



(Naini Jayaseelan)
Administrative Member
rn

(Ramesh Singh Thakur)
Judicial Member