

Through Video Conferencing

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00419/2020

Jabalpur, this Wednesday, the 26th day of August, 2020

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

Chaitanya Dewanagan, S/o Shri B.K. Dewanagan, aged about 43 years, Junior Engineer (QS & C), Military Engineer Services, HQ Chief Engineer Jabalpur Zone, Ridge Road, Jabalpur (M.P) – 482001
-Applicant

(By Advocate – Shri K.C. Ghildiyal)

V e r s u s

1. Union of India through the Secretary, Ministry of Defence, Government of India, South Block, New Delhi – 110001.
2. The Chief Engineer Central Command, Head Quarters Chief Engineer, Central Command, Lucknow (U.P) – 226001
-Respondents

(By Advocate – Shri Surendra Pratap Singh)

O R D E R

By Ramesh Singh Thakur, JM.

The applicant, who is a Junior Engineer, has filed this Original Application against the order of transfer dated 21.01.2020 (Annexure A-3), qua the applicant, whereby he has been transferred from the office of Chief Engineer Jabalpur Zone to Garrison Engineer Infantry School, Mhow. He is also aggrieved by the order dated 06.08.2020 (Annexure A-9), qua the applicant, whereby representation of the applicant has been rejected.



2. The main ground for challenging the action of the respondents is that the order rejecting the representation vide Annexure A-9 is not a reasoned and speaking one. It has been submitted by learned counsel for the applicant that the applicant is a officer bearer of the All India M.E.S. Civilian Engineers Association and as per the policy of transfer, there is a protection for the members of Association.

3. Learned counsel for the applicant has also placed reliance on the judgment of Hon'ble Apex Court in the matters of **Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others**, (2010) 9 SCC 496, wherein the Hon'ble Apex Court has pointed out the necessity of recording reasons in a decision making process.

4. On the other hand, learned counsel for the respondents submitted that the transfer of the employee is a prerogative of the employer. The transfer order can be interfered only on the ground of malafide on the part of the authority, which is not the case in the instant O.A. It has been further submitted that Annexure A-9 is only a communication regarding rejection of the representation of the transferred employees including the applicant.

5. We have perused the documents and the annexures attached with the Original Application.



6. It is clear from Annexure A-9 that representation of the applicant has been rejected on the ground that the representation of the applicant has been considered and not agreed to. No other grounds have been mentioned in Annexure A-9 while rejecting the representation of the applicant. In the matters of **Kranti Associates** (supra), the Hon'ble Apex Court has very clearly held that the impugned orders should be self contained and reasons should be there while taking the decision. Thus, considering the law laid down in the case of **Kranti Associates** (supra), we find that Annexure A-9 is not a reasoned and speaking order and the same deserves to be quashed and set aside.

7. In view of the above, we set aside Annexure A-9, qua the applicant, reserving liberty to the respondents to pass a reasoned and speaking order on the representation of the applicant. The said exercise shall be done within a period of four weeks from the date of receipt of a copy of this order. Needless to say that the applicant, till the final decision on his representation, shall not be disturbed as per transfer order dated 21.01.2020 (Annexure A-1). The applicant is directed to supply copy of this order along with Original Application to the respondents also.

8. With these observations, this Original Application is disposed of. No costs.

(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

am/-

