



**Central Administrative Tribunal  
Jammu Bench, Jammu**

Hearing through video conferencing

O.A. No.62/23/2020

Dated: This day of 3<sup>rd</sup> of August, 2020

(Orders reserved on 29.07.2020)

**Hon'ble Dr. Bhagwan Sahai, Member (A)**  
**Hon'ble Mr. Rakesh Sagar Jain, Member (J)**

Showkat Ahmad Ganie (29 years)

S/o Lt. Abdul Khaliq Ganie,

R/o Sheerpora, Pattan,

District: Baramulla Kmr.

- Applicant

(Mr. Shabir Ahmad Najar, Advocate)

Versus

1. Union Territory of J&K through  
Commissioner/Secretary to Govt.  
Animal/Sheep Husbandry Department, Kashmir
  2. Director, Sheep Husbandry Department,  
Kashmir
  3. District Sheep Husbandry Officer/Baramulla
  4. Assistant Director,  
Sheep Breeding Farm Hardshiva Sopore,  
Baramulla
- Respondents

(Mr. Amit Gupta, AAG)

## O R D E R

**Dr. Bhagwan Sahai, Member (A):**

Showkat Ahmad Ganie, son of Lt. Abdul Khaliq Ganie, resident of Sheerpora, Pattan, District: Baramulla Kmr., has filed this OA on 11.06.2020, seeking direction to respondents 2 and 3 not alter his position and to allow him to discharge his duty at the place of posting at District Sheep Husbandry Organization, Baramulla; and quashing of the impugned order of respondent no.2 dated 02.06.2020 and of respondent no.3, dated 04.06.2020, whereby he has been transferred and relieved from the above place of posting.

2. We have heard Mr. Shabir Ahmad Najar, learned counsel on behalf of the applicant and Mr. Amit Gupta, learned AAG on behalf of the respondents, on 12.06.2020 and again on 29.07.2020. In the meantime, reply to the OA was filed by the respondents on 27.07.2020.

3. In the OA and during submission of his counsel, the main contention of the applicant is that –

- (i) he is a Class IV employee, appointed as Assistant Stockman by the Government of J&K on 24.12.2013, and during the prevailing Covid-19 pandemic situation, respondents 2 and 3 have issued the impugned orders arbitrarily and with a malafide intention, without paying heed to the request of juniors by a pick and choose method;
- (ii) this order has been issued by respondent no.2 on behalf of persons who are subordinate to the applicant; and
- (iii) this order is against the transfer policy issued by the Government of J&K vide order dated 04.01.2019 (Anneuxre-III) which provides that transfer is to be made on the basis of seniority in the incumbent department. Therefore, this OA and the relief sought.

4. During arguments, the applicant's counsel has specifically pointed out contents of Para 2 of the Government of J&K order dated 04.01.2019, stating that Directors of animal/sheep husbandry Jammu/Kashmir Shall draw rosters of Veterinarians/Paravets not posted earlier in any government animal/sheep breeding farm on the basis of their seniority for posting in government farms and submit such

details to the administrative department to be updated every year, and posting of such Veterinarians/Paravets shall be done strictly as per such roster to be maintained by the administrative department. The applicant's counsel contends that the impugned order has been issued without complying with the stipulations of this Government order and therefore, it should be set aside.

5. In their reply and arguments of their counsel, the respondents have contended that –

(i) the impugned order dated 02.06.2020, transferring the applicant from District Sheep Husbandry Organization, Baramulla to Sheep Breeding Farm Hardshiva Sopore, has been issued by the competent authority, i.e., respondent no.2 for administrative and public interest and the applicant was relieved on 04.06.2020;

(ii) this order does not violate any right of the applicant and does not inflict any evil or civil consequences upon him;

(iii) as held in many Supreme decisions, expediency of transfer is to be seen by the Government and not by the Courts; and

(iv) as per the settled position of law, no Government servant or employee has any legal right to be posted forever at any one particular place, and transfer is not only an incident, but is a condition of service. The transfer is a prerogative of the employer to see at what place the service of the employee can be used in larger public interest and he is the best judge to know where the employee can discharge his duty to the best of his capability which would result in interest of administration. In view of these submissions, there is no merit in the OA and it should be dismissed.

6. We have carefully considered the submissions of both sides in the case. The main contention of the applicant is that his transfer order has been issued by respondent no.2 with malafide intention, and without complying with the stipulations of the transfer policy issued by the Department vide order dated 04.01.2019. As regards the allegation of malafide by the applicant against respondents no. 2 and 3, we note that the applicant has not made respondents no. 2 and 3 party to this OA in person and, therefore, we cannot take any cognizance of this allegation made by the applicant.

7. Perusal of the above Government order dated 04.01.2019 clearly shows that it is for posting of Veterinarians/Paravets on rotational basis in Government Animal/Sheep Breeding Farms. It has been issued by rescinding earlier Government Order No.187 ASH of 2015 dated 29.12.2015 and Government Order No.188 ASH of 2015 dated 29.12.2015. Para 2 of this order relied upon by the applicant clearly stipulates for preparation of rosters of Veterinarians/Paravets not posted earlier in any government animal/sheep breeding farm on the basis of their seniority and submission of such details to the administrative department every year.

8. Veterinarians mean veterinary surgeons or physicians who treat sick animals. Paravets are specially trained/skilled persons such as veterinarian nurses who assist the vets during performance of animal health procedures or treatment of sick animals. They carry out supplementary tasks during animal health care.

9. However, as mentioned by the applicant himself in the OA and pointed out by the respondents, he is a Class IV employee (Assistant Stockman). The order by which the applicant and others were appointed (dated 24.12.2013) clearly mentioned that the post of Assistant Stockman is equivalent to Field Men/Orderly/Chowkidar and Attendant. The applicant has not brought to our notice any government order or other evidence to prove that he is a Paravet. Thus he is not a paravet, he is only a Class-IV employee (Assistant Stockman). Therefore, the stipulations in para 2 of the government order dated 04.01.2019 meant for veterinarians/paravets are not applicable to him. Hence, claim of the applicant that his transfer is covered by provisions of government order dated 04.01.2019 is misreading.

10. The contention of the respondents in their reply is also correct that transfer is not only an incident but a condition of service, is prerogative of the employer and it can be made based on his judgment as to which employee is best suited in which office/at what place. In this case the transfer of the

applicant has been ordered by the competent authority as per its considered view.

11. From the above discussion, we conclude that there is no merit in the contentions of the applicant. We find no infirmity or illegality in the impugned order issued by the respondents. It is a case of only frivolous and wasteful litigation. We, therefore, dismiss the OA. No costs.

**( Rakesh Sagar Jain )**  
**Member (J)**

**( Dr. Bhagwan Sahai )**  
**Member (A)**

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