

CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

✓ O. A. No. 426/86

Narender Singh Applicant
Vs
Union of India Respondent

O. A. No. 428/86

G. S. Gopala Applicant
Vs
Union of India Respondent

Petitioners through Shri Rabinder Kapur, Advocate.

The Petitioners in these two petitions O.A. 426/86 and O.A. 428/86 call in question, the orders of transfer made in F.No. A-22021/I/86 Ad.VI dated 27th May, 1986 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi. By that order Narender Singh who was Appellate Assistant Commissioner Delhi was transferred outside Delhi and posted as Appellate Assistant Commissioner of Income Tax, Sholapur and the petitioner G.S. Gopala, Assistant Commissioner of Income-tax working as Deputy Director(Inspection), (Printing & Publication), Delhi was transferred and posted as Appellate Assistant Commissioner, Junagadh. The primary attack on these orders of transfer is that they violate the guidelines communicated by the Government in its letter No. Estt.1/Guidelines-Transfer/86-87/47954, dated 3rd March, 1986. The said guidelines in so far as they are relevant for our present purpose reads as under : -

"1. All Group 'A' Officers (including Assistant Commissioners) will be liable for transfer at the commencement of the next financial year if they have completed 8 years of continuous stay in any cadre controlling Commissioner's charge. This principle may be relaxed by the Board on compassionate grounds in appropriate cases. Periods spent on deputation and training at the same place (including similar assignments abroad) will count as continuous period of stay at that place. A break of less than two years will be

considered continuous stay, service in a lower cadre also will be taken into account.

2. Stay at a station should not exceed 8 years in respect of the metropolitan cities of Bombay, Calcutta and Delhi. This period should be restricted to 5 years in respect of the cities of Madras, Hyderabad, Ahmedabad and Bangalore. At other stations, the stay should normally be 3 years.

3. On promotion officers will normally be transferred irrespective of their period of stay except where they have come to that charge less than 2 years earlier.

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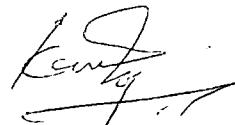
7. An officer is liable to be transferred to any part of the country at any time at short ~~or~~ notice on administrative grounds.

X X X X X X X "

The contention of the petitioners is that Group 'A' Officers of the Income-tax Department including Assistant Commissioners can not be transferred unless they complete 8 years of continuous stay at a particular place. We are unable to accept this contention. Paragraph I of the guidelines, itself provides for transfer of an officer before completion of 8 years at a particular place. It provides that a break of less than two years will be considered continuous stay. Such a provision would not have been necessary, if transfer could never have been ordered before expiry of 8 years. Further in paragraph 7, it is clearly stated that an officer is liable to be transferred to any part of the country at any time at short notice on administrative grounds. Paragraph 7 of the guidelines is supplementary to the guidelines contained in Paragraph 1 referred to above. The impugned order of transfer does not violate the guidelines.

It is next contended that these orders are discriminatory in-as-much other officers who were promoted alongwith petitioners and who had also completed 4 years of service are allowed to continue at their present place of posting while the petitioners are transferred out of Delhi.

Orders of transfer cannot be said to be discriminatory merely because some other officer who had completed the same period is also not simultaneously transferred. The petitioners have no vested right to be retained at any particular place. When orders of transfer are made on administrative grounds, unless such orders are shown to be malafide or that they are punitive, they are not liable to be quashed. There are no such allegations. They are only challenged as being contrary to the guidelines which contention we have already dealt with and rejected. The petitioners cannot therefore have any justifiable grievance against this order of transfer. The petitions are accordingly dismissed in liminie.


(K. MADHAVA REDDY)
CHAIRMAN
17.6.1986


(S. P. MUKERJI)
MEMBER
17.6.1986