

(9)

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1036/87

Date of decision: 10.12.1992.

Shri Vishnu Dutt Gautam

...Petitioner

Versus

Union of India through the
Secretary, Ministry of Defence & Others ...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

None

For the respondents

Shri V.S.R. Krishna, proxy
Counsel for Shri M.L. Verma,
Counsel.

Judgement(Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

None appeared for the petitioner. Shri V.S.R. Krishna, counsel appeared for the respondents. Even on the last occasion none appeared for the petitioner. As this is a very old matter and the petitioner appears to be consistently indifferent to his case, there is no good reason why we should not dispose of this old case on merits.

2. The petitioner has challenged the order of transfer as also the order imposing the penalty of reduction to one lower stage in the time scale of pay for a period of two years during which period he would not earn any increment and the reduction would have the effect of postponing the future increments of his pay.

3. On the facts pleaded in this case, it is clear that the petitioner did not report to the place to which he was transferred for nearly 17 months. The petitioner's case is that he was entitled not to report for duty for the reason that he had made a grievance about transfer and had requested the authorities to cancel the order of transfer and the same was pending for consideration. It is not the law that the officer who is transferred is not under an obligation to obey the order of transfer merely because the representation made by him has not been dealt with by the said authority. The petitioner was, therefore, bound to comply with the order of transfer even though his representation for cancellation of the same was not disposed of. The petitioner cannot unilaterally stay the operation of the order of transfer. It is, therefore, a clear case where the petitioner was guilty of not reporting to duty in accordance with the order of transfer. The order of transfer is not liable to be interfered on the ground that the representation was not disposed of promptly. There is no merit in the contention that the order of transfer is not legal and valid.

4. Admittedly the petitioner did not report to duty. The reasons advanced by him is not tenable for the reasons stated earlier. The petitioner is guilty of misconduct. The punishment imposed also, in our opinion, cannot be regarded as manifestly unreasonable or perverse, calling for interference. Hence, no interference is called for.

The bald assertion of the petitioner that the enquiry was initiated by the incompetent authority and copies of certain documents were not supplied to him does not merit serious consideration, as no satisfactory material in this behalf has been placed. Besides, as the facts stand admitted and the explanation offered by him is thoroughly untenable, no other question survives for examination.

5. For the reasons stated above, this petition fails and is dismissed. No costs.

Dilipak
(I.K. RASGOTRA)
MEMBER(A)

Malimath
(V.S. MALIMATH)
CHAIRMAN

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