

-12-

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

DATED WEDNESDAY THE TWENTY SIXTH DAY OF APRIL ONE
THOUSAND NINE HUNDRED EIGHTY NINE

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman

REVIEW APPLICATION NO.23/89
in OA 2006/88

Capt. Mehar Singh .. Applicant

Vs.

Union of India rep. by
Secretary, Deptt. of
Agriculture and four others .. Respondents.

Review applicant in person.

ORDER

Shri S.P.Mukerji, Vice Chairman

In this Review Application a prayer has been made that the judgment delivered by me on 20.1.1989 in O.A.-2006/88 should be reviewed and the impugned transfer order which has upheld in that judgment should be quashed and set aside and the legality of the selection of Shri Rajbir Singh should be decided and Respondent No.3 be directed to investigate into the alleged complaints against him. The main ground taken in the Review Application is that the impugned order of transfer was a measure of punishment and could not have been awarded to him without notice. It has also been argued that the transfer being

on the basis of general misconduct on his part it could not have been awarded to him without proper enquiry and even a suspicion of misconduct was no good ground for ordering his transfer. It has also been stated that the legality of posting his successor Shri Rajbir has not been gone into the judgment as assured in the Interim Order passed by the Tribunal on 1.11.1988.

2. Review of an order is entirely distinct from an appeal. I am afraid the grounds taken in the Review Application will be going into the merits of the judgment on the basis of certain rulings which according to the applicant will be relevant. Going into the merits of the findings in a judgment is not permissible in a Review Application. Review is allowed only when there is an error apparent on the face of record or certain new facts have come to the notice of the applicant which were not available to him even with due diligence before the judgment was pronounced. Neither of these grounds are available in the Review Application. The Review Applicant has merely recommenced his arguments on the main application which was decided after hearing both the parties. Transfer is not a punishment but an incident of service and accordingly no notice to the employee is necessary before a transfer

131A

order is passed. How the employees should be deployed
in the ^{best} public interest is a matter which is to be kept
within the administrative discretion and subjective
judgment of the ^{I.C.A.R} Government as the employer and so long
as there is no collateral reason ^{behind the transfer, other than of public interest} the courts will be
loath to intervene. In the instant case I found that
there were cogent and valid reasons of administrative
efficiency and smooth running of the National Research
Institute in transferring the applicant. The respondents
could have easily proceeded against the applicant in
disciplinary proceedings but instead of doing that they
thought it fit to transfer him to another station
where he could be able to adjust himself properly.
There is no malafide involved in it. As regards transfer
of Shri Rajbir Singh to succeed him in the old station
it has already been stated in the judgment that no
collateral reason is apparent as he could have easily
been transferred to another Institute at the same station
if the respondents were keen to post him to that station.
Since the applicant has no locus standi to challenge
the transfer of Shri Rajbir Singh the question of
legality of his posting was not gone into in the
judgment. ^{dated 1.11.88} Nothing in the Interim Order seems to be
an assurance which is to be fulfilled irrespective of

22

the requirement of law, in the judgment.

3. In the facts I see no merit in the Review Application and reject the same.


(S.P. Mukerji)
Vice Chairman
26-4-1989

Sn.