

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1181/90
T.A. No.

199

DATE OF DECISION 10.9.1990.

Shri Gursewak Singh Sodhi ~~Petitioner~~ Applicant

In person Advocate for the Petitioner(s)

Versus

Union of India through Respondent

Secy., Miny. of Defence & Anr.

Shri K.S. Dhingra, Advocate for the Respondent(s)

Administrative Officer

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? / No
4. Whether it needs to be circulated to other Benches of the Tribunal? / No

(Judgement of the Bench delivered by Hon'ble
 Mr. P.K. Kartha, Vice-Chairman)

The grievance of the applicant, who is a Stenographer Grade 'A' in the Ministry of Defence, is that he has been shifted from Air Headquarters to Q.M.G. by the impugned order dated 23.2.1990 at Annexure A-11, p.37 of the paperbook. The offices of Air Headquarters and Q.M.G. are located in Delhi. Shri Dhingra, Senior Administrative Officer appearing for the respondents, stated that the Office of Q.M.G. is located very close to ^{Air} Headquarters. The impugned order deals with the postings and transfers of Stenographers Grades 'A' and 'B' in the Ministry of Defence. One, Shri K.L. Bhatia, who is working in the Office of Q.M.G., has been transferred vice the applicant Q.M.G.

in the Air Headquarters, and the applicant has been transferred to the Office of A.M.G. vice Shri Bhatia. The impugned order also deals with the postings and transfers of other Stenographers Grades 'A' and 'B'.

2. The case of the applicant is that being a Stenographer, Grade 'A', he should be posted only to a Lt. General, who is in the pay-scale of Rs. 7300-7600. In case, the respondents do not wish to post him with the Lt. General, he has stated that he could be posted with officers of equivalent rank, namely,

- (a) Deputy Chief of the Army Staff.
- (b) Adjutant General, Army Hqrs.
- (c) Engineer-in-Chief, Army Hqrs.
- (d) Director General Infantry, Army Hqrs.
- (e) Signals Officer Incharge, Army Hqrs.
- (f) Director General, Military Training, Army Hqrs.
- (g) Director General Armoured Corps, Army Hqrs.
- (h) Master General Ordnance, Army Hqrs.
- (i) Director General Ordnance, Army Hqrs.
- (j) Addl. Director General, Medical Services
- (k) Commandant, National Defence College.

3. The applicant has contended that according to the AFHQ Stenographers Service Rules, 1970, duty posts included in Stenographer Grade 'A' and in Stenographer Grade 'B' of the Armed Forces Headquarters Stenographers Service, have been listed separately in the second Schedule and the third Schedule, respectively. He has also relied upon Rule 7 of the AFHQ Stenographers Service Rules, 1970, according to which, every duty post shall, unless declared to be excluded from the service under Rule 6 or held in

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abeyance for any reason, be held by an officer of the appropriate grade.

4. The applicant was promoted from Stenographer, Gr.B to Stenographer, Gr.A w.e.f. 4.1.1983. He has been appointed on a substantive basis on the said post w.e.f. 1.5.1986. According to him, the duties and responsibilities of the post of Stenographer Grade 'A' are of greater importance than those of Stenographer Grade 'B'. He has been working in the D.G.M.S. (Air) since 13.9.1984.

5. The applicant has not joined the Office of Q.M.G. pursuant to the impugned order. He has also not received salary for the months of April and May, 1990.

6. The present application was filed in the Tribunal on 7.6.1990. When it came up for admission on 8.6.1990, the applicant stated that the application may be considered only with regard to the relief prayed for quashing the impugned order dated 23.2.1990. Shri Dhingra stated that ~~in regard to the release of pay to him by~~ the necessary action in ~~the concerned~~ has been taken by them.

7. The case of the respondents is that the members of the AFHQ Stenographers Service are liable to be posted in three Service Headquarters and the inter-service organisations under the Ministry of Defence. Prior to 1.1.1986, the AFHQ Stenographers Service comprised Stenographers Grade 'A' (in the pay-scale of Rs. 650-1200) and Stenographers Grade 'B' (in the pay-scale of Rs. 650-1040), among others. Consequent upon the acceptance of the recommendations of the Fourth Pay Commission, the duty posts in Stenographer Gr.'A'

and Stenographer Grade 'B' have been merged and a common pay-scale of Rs. 2,000-3500 has been sanctioned. This merger was notified in the Gazette in terms of Civilians in Defence Services (Revised Pay) Rules, 1986. Although formal amendment to the second and third Schedules to the AFHQ Stenographers Service Rules, 1970 ~~not a~~ has been notified, for all practical purposes, the notification issued under the Civilians in Defence Services (Revised Pay) Rules, 1986, has the effect of merging both the schedules. Action has also been initiated to issue formal amendment in the AFHQ Stenographers Service Rules. After the merger of the pay-scales, the duty posts in Stenographer Grade 'A' and Stenographer Grade 'B' became interchangeable w.e.f. 1.1.1986. The respondents have stated that in view of the merger, fresh appointments to Stenographers Grade 'A' are not being made.

Q. The respondents have referred to the 'Turn Over' policy for Civilians in AFHQ which applies also to the Stenographers Service. According to the policy, no ~~for~~ person is allowed to serve/more than ten years in one Hq./Branch/Organisation; no person is allowed to serve for more than three years in a sensitive Section; and Stenographers and Personal Staff attached to senior officers are to be rotated internally by the Coordination Section of the Hq./Branch/Organisations themselves on completion of three years, or even earlier in the interest of security. The applicant became due for 'Turn Over' internally in Air Headquarters after he had worked as

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Private Secretary to the Director General Medical Services (Air) since 1.9.1984. He was, therefore, posted to Deputy Chief of Air Staff Secretariat on 11.1.1990. On 2.2.1990, when he was given relieving note by the Deputy Director General Medical Services (Coordination), it has been alleged that he shouted, used abusive language and passed derogatory remarks against him in protest against issue of the relieving note. The Deputy Director General Medical Services (Coordination) has submitted a report of the incident of alleged misbehaviour by the applicant on 5.2.1990, a copy of which is at Annexure R-2 to the counter-affidavit, page 82 of the paper-book. In the light of this incident, the respondents have stated that his further continuance in Air Headquarters was considered subversive to office discipline and decorum and he was transferred out of Air Headquarters without prejudice to the question of his suspension in the light of further investigations that might be carried out. He was relieved by Air Headquarters on 9th April, 1990 with direction to report to QMG Branch, Army Headquarters. The applicant refused to accept the said order and recorded his protest note. Subsequently, the same has been served on him through registered post at his residential address on 21.4.1990. He has not yet reported for duty to QMG Branch.

9. The respondents have further stated that in compliance with the directions of this Tribunal passed on 3rd July, 1990, the applicant was to be released his pay and allowances for the months of April and May, 1990. Keeping in view the fact that he himself was his Drawing and Disbursing Officer, he was requested to send his
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regular pay bills for these two months duly signed by him for releasing his pay and allowances.

10. We have carefully gone through the records of the case and have heard the applicant in person and Shri Chingrá, appearing for the respondents. The respondents have raised a preliminary objection that the applicant has approached the Tribunal without exhausting the departmental remedies available to him. We are not impressed by this contention as the Tribunal has the power to entertain an application even if the aggrieved person has not exhausted the remedies available to him, if the exceptional circumstances so warrant.

11. However, we are of the opinion that the applicant has not established a prima facie case for the grant of relief sought by him. It is true that the incident of alleged misbehaviour which occurred in the room of the Deputy Director General, Medical Services (Coordination) on 2.2.1990, is the motive for transferring the applicant from Air Headquarters to QMG Branch. It is also true that the applicant has been posted to work with an officer who is not of the rank of Lt. General in QMG Branch. The impugned order of transfer cannot, however, be faulted on these grounds.

12. As regards the duties and responsibilities of the Stenographers Grade 'A' and Grade 'B', there is a fusion as a result of the acceptance of the Fourth Pay Commission and the merger of the two grades. A senior Stenographer may be posted to a junior officer and a junior Stenographer may be posted to a Senior Officer, depending upon the exigencies of service. This is being done in the various

secretariats of the Government of India. By the impugned order of transfer, the applicant will not stand to lose monetarily or otherwise.

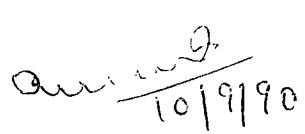
13. The question whether a Government servant can be transferred on the basis of a complaint received against him, has been considered by the Full Bench of this Tribunal in its judgement dated 27.4.1988 in Kamlesh Trivedi Vs. Indian Council of Agricultural Research & Another, 1988 (7) A.T.C. 253. The Full Bench observed that "Transfer may be on administrative grounds and one of the grounds ~~given~~ could ⁹ very well be the allegations themselves. If the transfer is ordered in the exigency ^{of} of service without giving any finding on the allegations, it would not be vitiated." // In the instant case, a complaint has been made against the applicant and the matter is still at the stage of allegations and investigations. The transfer has been effected at this stage. In our considered opinion, in the light of the decision of the Full Bench in Kamlesh Trivedi's case, the impugned order of transfer cannot be faulted. //

14. In the conspectus of the facts and circumstances of the case, the applicant has not made out a prima facie case regarding his grievance and the application is dismissed at the admission stage itself. As the Tribunal has directed by way of interim relief to disburse to the applicant his salary for the months of April and May, 1990, the respondents, however, may disburse the same to him immediately, if it has not already done.

There will be no orders as to costs.


(P.K. Chakravorty)
Administrative Member

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P.K. Kartha
Vice-Chairman(Judl.)

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