

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1658/90
T.A. No.

199

DATE OF DECISION 26.4.1991

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| <u>Shri M.L. Ravet</u> | Petitioner |
| <u>Shri Ashok Aggarwal</u> | Advocate for the Petitioner(s) |
| Versus | |
| <u>U.O.I. & Another</u> | Respondent |
| <u>Shri K.L. Phandula</u> | Advocate for the Respondent(s) |

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *No*
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*

JUDGMENT

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

The grievance of the applicant relates to his non-transfer from Gangtok to any place near New Delhi.

2. The pleadings in this case are complete. The application has not been admitted. We feel that it could be disposed of at the admission stage itself and we proceed to do so.

3. The applicant joined the Government service in 1964 as Junior Draftsman (now redesignated as Draftsman Grade II). He was posted in Thermal Civil Design Directorate, New Delhi. He was promoted as Senior Draftsman (now redesignated as

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Draftsman Grade I) in January, 1973 and continued to work as such in New Delhi. He was posted in Faridabad in 1986. From there he was posted to Gangtok by Order dated 16.12.1987. He reported for duty at Gangtok on 16.2.1988.

4. The case of the applicant is that the extreme climate at high altitude does not suit his health. He made several representations requesting for transfer to any station which was not at a high altitude. He has also produced numerous medical prescriptions in support of his claim.

5. The case of the respondents is that it has not been possible to post the applicant to Delhi or Faridabad or nearby place for want of a vacancy in the grade of Draftsman Grade I. According to them, he was transferred outside Delhi/Faridabad after a period of about 24 years. The applicant is also a holder of a transferable post.

6. We have carefully gone through the records of the case and have considered the rival contentions. At the time of filing of the present application in the Tribunal on 16.8.1990, the applicant had already completed 2 years of service in Sikkim. According to the transfer policy laid down by the respondents

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~~that~~, "in the case of drawing staff Group 'C' the service outside home state Delhi/Faridabad shall be restricted to 2 years unless extension is desired on voluntary basis". Having regard to the aforesaid transfer policy of the respondents, we feel that this is a fit case in which the respondents should have considered the request of the applicant to post him to a non high altitude station which will suit his health. This would, however, depend on the availability of a vacancy in such a station. The application is disposed of with the direction to the respondents to consider transferring the applicant from Gangtok to any other non high altitude station depending on the availability of a vacancy. We further direct that the applicant shall be paid pay and allowances for the period during which he attended the office. The period during which he has not attended the office shall be regulated by granting him leave of any kind due including leave not due in accordance with the relevant rules.

There will be no order as to costs.

D. K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)

26/4/91
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(P.K. KARTHA)
VICE CHAIRMAN (J)