

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1968/90  
T.A. No.

199

DATE OF DECISION 14.12.1990.

Shri Subroto Kumar Manna

Petitioner Applicant

Shri R.K. Kamal

Advocate for the Petitioner(s)

Versus

Union of India through the  
Miny. of Defence & Ors.

Respondent

Shri K.C. Mittal

Advocate for the Respondent(s)

## CORAM

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. D.K. Chakravorty, Member)

The applicant, who is working as a Junior Scientific Assistant in the Office of the respondents, is aggrieved by his transfer from Delhi to Calcutta by the impugned order dated 3.9.1990. The application was filed in the Tribunal on 24.9.1990. On 25.9.1990, the Tribunal passed an interim order directing the respondents not to give effect to the impugned order dated 3.9.1990 purporting to transfer the applicant from Delhi to Calcutta w.e.f. 30.9.1990. The interim order has thereafter been continued till the matter was finally heard.

on 12.12.1990 and orders reserved at the admission stage itself.

2. The facts of the case in brief are that the applicant joined Government service as Senior Laboratory Assistant in 1970. He was promoted as Junior Scientific Assistant in 1981. According to the applicant, he has not been allowed to complete 4 years' tenure before his transfer. He has given instances of persons who are still working in the office for over four years. He has also alleged that the impugned order has been passed to accommodate one, Shri G.B. Kaushik, by transferring him from Calcutta to Delhi. He attributes mala fide intentions on the part of Col. S.S.K. Raheja, the Deputy Director General, in transferring him to Calcutta and bringing Shri Kaushik back to Delhi, where he had worked for more than six years. He has also stated that no TA/DA was paid to him to comply with the Movement Order. He has further stated that the impugned order has been issued during the middle of school session which will adversely affect the education of his ailing son.

3. The respondents have denied in their counter-affidavit <sup>any</sup> ~~the allegation of~~ mala fide on the part of Col. Raheja, as alleged by the applicant. They have also annexed to the counter-affidavit a statement of

Shri Raheja wherein he has refuted the allegations made against him. They have also stated that the applicant himself had informed the respondents in writing on 15.6.1990 that his posting to Jammu vide the posting order dated 4.6.1990, be cancelled and that he may be given any other station where facilities for treatment of his son are available, "preferably at Calcutta".

4. We have gone through the records of the case and have heard the learned counsel for both the parties. At the outset, it may be stated that the applicant has not substantiated the allegation of mala fides or mala fide intentions on the part of Col. Raheja in ordering the transfer of the applicant. The applicant is holding a transferable post. We, however, notice that the imougned transfer order at Annexure A-1 to the application is not in the proper form inasmuch as it does not indicate the period of leave availed of by him and it also does not state anything about the payment of TA/DA advance on his posting at Calcutta. The applicant has annexed as Annexure A-6 to the application the form in which movement orders are normally issued, wherein all the details are spelt out.

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5. It is also borne out from the records that no TA/DA advance has been paid to the applicant.

6. After considering the rival contentions, we are of the opinion that while the applicant is not entitled to the quashing of the movement order as prayed for by him, he should be given adequate time to prepare himself for complying with the transfer order. We, therefore, partly allow the application and direct that the respondents shall pay to the applicant the TA/DA admissible to him on his posting to Calcutta. They shall issue a fresh movement order in cancellation of the movement order dated 3.9.1990 on the lines of the movement order at Annexure A-6 to the application and pay the TA/DA advance to him within a period of six weeks from the date of receipt of this order. The interim order passed on 25.9.1990, will cease to be in force thereafter. The application is disposed of at the admission stage itself with the aforesaid directions.

There will be no order as to costs.

*Declaration*  
(D.K. Chakravorty)  
Administrative Member  
14/12/1990

*Decided*  
14/12/90  
(P.K. Kartha)  
Vice-Chairman (Judl.)