

Date	Office Report	Orders
		<p>10.7.1990.</p> <p>Present: Shri O.P. Khokha, Counsel for the applicant. Mrs. Raj Kumari Chopra, Counsel for the respondents.</p> <p>This application has been filed against the transfer order dated 6th March, 1990 posting the applicant from Jaipur to Chief Engineer Ahmedabad Zone.</p> <p>The case of the applicant is that he has been included in the tenure list and cannot be transferred from Jaipur to a non-tenure posting since a warning has also been issued that he could be posted out on a tenure post according to the existing instructions. The applicant cannot be transferred to any other place except under local arrangement, if necessary, at the same place. In support of this, he has filed Annexure II to the application dated 17.11.1989 giving a seniority list for the purposes of tenure posting. According to him, the office of the Chief Engineer, Ahmedabad Zone does not come under tenure posting.</p> <p>2. The respondents have filed a reply in which it is stated that the applicant has been serving in the office of Chief Engineer, Jaipur Zone since the initial appointment in March, 1986 and has been transferred to Ahmedabad Zone to accommodate persons who have completed their tenure at far off places. It has been stated that the applicant stands relieved but he got interim stay from the Tribunal on 19.6.1990 by making wrong submissions. The learned counsel for the respondents stated at the bar that the applicant is now in the general list for normal posting. No malafide has been alleged against any of the respondents and as the official is on a transfer <sup>post</sup> has been transferred in public interest after a long stay at Jaipur, the Tribunal cannot interfere in the matter.</p> <p><i>Dra</i></p>

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		<p>3. The learned counsel for the applicant urged that the transfer was in clear violation of the guidelines issued on the subject and the respondents will not transfer the applicant to a non-tenure station having put his name in the list of tenure officials and after issuing a warning to that effect. The learned counsel also stated that the applicant had passed the departmental test about three years back and is due for promotion. The promotion could not take place as no D.P.C. <sup>has been</sup> held during this period but according to him D.P.C. is likely to be held in September, 1990 <sup>or</sup> so. If the applicant is transferred to Ahmedabad he will have to be retransferred on promotion as there will be no equivalent post at Ahmedabad and this will cause great hardship. Shri Khokha said that the applicant has no objection to go to any hard posting in his turn.</p>
		<p>4. After hearing the learned counsel for both the parties, we are of the view that as the applicant has been transferred from Jaipur to Ahmedabad Zone after remaining there for over 6 years and as the order of transfer has been issued by a Competent Authority and as there is no malafide or violation of any statutory rules, we should not interfere in such a transfer. Even if, there is a violation of some guidelines as the applicant was put in tenure list, that itself is not enough to hold the transfer order invalid. We do not want to go into the question whether persons senior to the applicant are still at Jaipur. It is for the authorities to decide how they want to deploy their personnel in the best interest of the work. If the applicant is willing to go on transfer to Port Blair, we see no reason why he should not go to Ahmedabad Zone. It has been held by the Supreme Court in the case of Union of India &amp; Ors. Vs. H.N. Kirtania, Judgement Today 1989(3) SC 141 that all Central Government employees <sup>who</sup> are liable <sup>to</sup></p>

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		<p style="text-align: center;">: 3 :</p> <p>to be transferred <del>or</del> one place <del>or</del> the other should not <sup>be</sup> interfered with unless there are strong grounds rendering the transfer order illegal on the ground of violation of statutory rules or on the ground of malafides. In the circumstances, the application is dismissed at the admission stage. The respondents may, however, consider whether the applicant is likely to be retransferred from Ahmedabad Zone on his promotion in the near future and whether it will cause him undue hardship by the present transfer. We leave this to be considered by the respondents.</p> <p style="text-align: right;"><i>B.C. Mathur</i> ( B.C. Mathur ) Vice-Chairman</p>