

Central Administrative Tribunal
Principal Bench, New Delhi

OA No.2233/1991

New Delhi this the 16th day of August 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

S.K.Puri
Draughtsman Gr.II
R/o E-24 Nanakpura
New Delhi-21.
(Through Sh.D.C.Vohra, Advocate)

...Applicant

Versus

1. Ministry of Defence
Through Secretary
Government of India
Kashmir House
New Delhi.
2. Engineer-in-Chief
Kashmir House
New Delhi.
3. Chief Engineer (Western Command)
Chandimandir - 134107.
4. Chief Engineer, Delhi Zone
Delhi Cantt.
5. Commander Works Engineer
R&R Hospital
Delhi Cantt. Delhi.

...Respondents.

(Through Mrs Raj Kumari Chopra, Advocate)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

This is an application under section 19 of the Administrative Tribunals Act 1985 filed by Shri S.K.Puri, Draughtsman Gr.II under Commander Works Engineer, R.R.Hospital, Delhi Cantt. Delhi, impugning the order dated 8.6.1991 issued by the third respondent transferring him to Bhatinda. The main ground on which the applicant assailed the order is that while the applicant had already done service in tenure station twice for a total period of 7 years, he is again being transferred to a tenure station while those who have not done such tenures are retained in the station of their posting. When the application was admitted on 25.8.1992,

'the impugned order was stayed until further orders. Though the respondents filed reply to the OA, they did not move the Tribunal for vacation of the interim order of stay of the impugned order with the result that the applicant continued in his place of posting. Before filing this application the applicant had made a representation to Chief Engineer, Western Command (third respondent) on 29.6.1991 which remained not disposed of.

2. The respondents in their reply do not dispute the fact that the applicant was in tenure station for 7 years, but their contention is that even then it is open for the administration to transfer any officer again to a tenure station.

3. This application filed in the year 1991 against the transfer has come up for final hearing now only in the year 1995. The applicant has continued in the station on the basis of the stay order. The applicant bases his claim for not being transferred to a tenure station on the basis of guidelines. The guidelines formulated by the concerned department are to be followed and not to be violated. But even though there are guidelines, the guidelines do not clothe an officer holding a transferable post ^{a right to claim} that he should be retained in a particular place ^{on} a particular post. If administrative exigency requires transfer of the incumbent even against the guidelines, the administration should have ^{the liberty} to do so. But when transfer to a tenure station of a person who has done two tenure station is ordered, the competent authority should take into consideration the guidelines, the circumstances as also the administrative exigency. From the reply statement, it is not very clear whether these aspects have been fully considered by the competent authority before the impugned order of transfer was issued.

4. However, we do not consider it appropriate to pronounce on the propriety of the order of transfer especially when the applicant himself has made a representation to the competent authority. It is for

10

the competent authority to consider the representation in the light of the guidelines and other administrative instructions in the matter and to take a just and reasonable decision. Since the applicant has continued to work in Delhi itself on the basis of the interim order, we are of the considered view that it would be appropriate if the third respondent is directed to consider the representation of the applicant.

5. In the result, we dispose of this application with a direction to the third respondent to consider the representation submitted by the applicant on 29.6.1991 in the light of the guidelines and other instructions in the matter and to dispose of it with a speaking order. We further direct that till a final decision on the representation is taken and communicated to the applicant, the impugned order shall not be implemented.

No order as to costs.

R.K. Ahuja
(R.K. Ahuja)
Member (A)

A.V. Haridasan
(A.V. Haridasan)
Vice Chairman (J)

aa.