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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

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**O.A. NO.2103/2004**

This the 15<sup>th</sup> day of October, 2004.

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)**

L.M.S. Bisht,  
SAO/Asstt/ Comdt..  
CSD & W, SSB,  
Ministry of Home Affairs,  
Distt. Saharanpur, Sarsawa (UP).

... Applicant

( By Shri Shrigopal Aggarwal, Advocate )

-versus-

1. Union of India through  
Director General.  
Sashatra Sena Bal,  
Force Headquarters,  
Ministry of Home Affairs,  
R.K.Puram, New Delhi-110066.
2. Director General SSB,  
Ministry of Home Affairs,  
East Block-VI, R.K.Puram,  
New Delhi-110066.
3. SAO/Assistant Commandant,  
CSD & W Sarsawa,  
Distt. Saharanpur.
4. Shri R. Bhardwaj,  
SAO/Asstt. Comdt.,  
C/O Ministry of Home Affairs,  
SSB Force Hqrs., R.K.Puram,  
New Delhi-110066.

... Respondents

( By Shri B. S. Jain, Advocate )

**ORDER (ORAL)**

Applicant has been working as Assistant Commandant at CSD&W, Sarsawa. He was transferred to Sarsawa on promotion on 4.12.2003 (Annexure A-1 Colly.). He has now been transferred vide order dated 16.7.2004 to SAO, Sidharthnagar stating that the transfer has been

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made on applicant's own request without TA/DA. He has challenged his transfer to SAO, Sidharthnagar.

2. The learned counsel of the applicant stated that applicant had met with an accident in August, 2001 resulting in serious head and body injuries for which he has been receiving medical treatment at Bareilly and New Delhi. Vide his representation dated 1.6.2004, he had requested for transfer on medical grounds to any one of the three places, namely, Almora, Dharchula Sub-Area and Pithoragarh, but vide the impugned orders the respondents have transferred him to an entirely new place Sidharthnagar stating that he has been transferred on his request and has also not been paid any TA/DA. The learned counsel further pointed out that w.e.f. 31.8.2001, applicant's earlier place CSD&W, Sarsawa has been merged with Bhopal. Seeking cancellation of his transfer orders, it has been stated by the learned counsel that as on merger of his previous station it may not be possible to bring back the applicant to Sarsawa, he would have no objection if he is posted at Bhopal where his office has been merged.

3. On the other hand, the learned counsel for respondents stated that respondents have transferred the applicant keeping in view the facts stated in his representation. Because of medical grounds, applicant had chosen three places as appropriate for his transfer. Respondents have accepted applicant's medical condition and transferred him to Sidharthnagar.

4. The impugned orders state that respondents had transferred the applicant to Sidharthnagar on his own request. He has also been transferred without TA/DA. Admittedly, applicant had sought his transfer to one of the three places indicated in his representation on medical grounds. Medical condition of the applicant has not been denied by the respondents. But transferring the applicant to a place other than the three

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stations mentioned by him on the ground that his request has been accepted and denying the benefit of TA/DA sounds funny and arbitrary exercise of the executive power. If he were to be transferred to a place other than the three mentioned by him, the same could have been done only on administrative exigencies. But if the respondents were accepting his request on medical grounds, his transfer should have been made to one of the three stations mentioned by him, though without TA/DA. Obviously, his request has not been agreed to and no administrative exigencies have been exhibited by the respondents for transferring the applicant. Applicant has indeed been meted out a harsh treatment despite his medical condition. If the respondents were not in a position to accommodate the applicant at any one of those three stations, applicant could have been stayed put at his existing station, i.e., Sarsawa. Now that CSD&W, Sarsawa has been merged with Bhopal and applicant has no objection in serving at Bhopal, respondents would be well advised to transfer the applicant to Bhopal, in the interest of justice. The learned counsel of the respondents did mention that there is no vacancy at Bhopal. However, in view of the fact that respondents had transferred the applicant against his request despite his medical condition, they will have to take suitable steps to accommodate the applicant at Bhopal particularly in the circumstances that CSD&W, Sarsawa has merged with Bhopal. Respondents do have means and resources to accommodate the applicant at Bhopal. The predicament has been created by the respondents themselves in transferring the applicant against his request though they have unjustly stated that his transfer has been effected on his request.

5. In the light of the above discussion, order dated 16.7.2004 is quashed and set aside requiring the respondents to consider applicant's request for accommodating the applicant at Bhopal where CSD&W, Sarsawa has been merged. The necessary consideration and orders be



effected within a period of 15 days from the date of communication of these orders. Applicant shall have a week's time for joining after communication of respondents' orders. No adverse consequences shall visit the applicant till then.

6. The OA is disposed of in the above terms.

V. K. Majotra

( V. K. Majotra )  
Vice-Chairman (A)

15.10.09

/as/