

22

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. NO.2545/2004

New Delhi, this the 15th day of December, 2004

HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

**Shri Prithvi Raj Singh,
S/o Late Shri L.S. Rajput,
R/o 345, Sector-12, R.K. Puram,
New Delhi**

... **Applicant**

(By Advocate: Shri B.S. Verma)

Versus

1. Union of India
Through Cabinet Secretary,
Govt. of India,
Cabinet Secretariat (Main),
Rashtrapati Bhawan,
New Delhi – 110 001
2. Director General of Security,
Cabinet Secretariat,
Room No.7, Bikaner House Annexe,
New Delhi – 110 001
3. Inspector General (Head Quarter),
Special Frontier Force (SFF),
East Block, V, Level-4,
R.K. Puram, New Delhi – 1
4. Deputy Director (AG),
Head Quarters SFF,
East Block, V, R.K. Puram,
New Delhi – 110 066

... **Respondents**

(By Advocate: Shri B.S. Jain)

ORDER

BY HON'BLE MR. S.K. MALHOTRA:

This OA filed by the applicant is against the order dated 7.10.2004 (Annexure G-2) transferring him from Delhi to Chakrata and has prayed for its cancellation.

2. The applicant is an LDC working in Special Frontier Force (SFF) under the administrative control of the Cabinet Secretariat. He has stated that he was posted to Chakrata during the period 1990-2001 and served at this station for 11 years and 7 months during his service career of about 27 years. According to him, it is a difficult station due to cold climate, high altitude and absence of medical facilities. He was transferred to Delhi in August, 2001. Due to his long posting at Chakrata he is suffering from Degenerative Spondylitic and disc changes in cervical region for which he is getting treatment in Safdarjung Hospital. He was transferred to Chakrata where he was to join on 30.9.2004 but he developed serious pain and the doctor has advised that he should not be posted at difficult stations with cold climate and hilly terrain (Annexure – D). He made a request for cancellation of his transfer order on this account. The respondents kept the transfer order in abeyance. However, on 7.10.2004, they again issued his transfer order to Chakrata and the applicant stood relieved on 15.10.2004. He made a representation against this order and now vide order dated 8.10.2004, he has been posted to sub-unit at Kalsi. He has made a request for the cancellation of this transfer order also, on medical ground but to no avail. Hence this OA.

3. The respondents have filed their reply in which they have stated that SFF is an organization of uniformed personnel as well as civilian employees under Directorate General of Security. The two stations where civilian/ministerial staff is employed are New Delhi and HQ establishment at Chakrata. To regulate the tenure of civilian employees at two stations, periodic transfer of the staff is ordered. He was transferred to Chakrata after his stay of more than 3 years in Delhi. But as he had represented to cancel his transfer on medical ground and had also submitted a medical certificate to the effect that he should not be posted to cold and hilly area, he has now been posted at Kalsi. The station is neither a hill station nor it has cold climate. It is at a distance of 50 KMs from Dehradun where military hospital is available. It has also been stated that while his posting at Chakrata for about 11 years, he never represented for his transfer from Chakrata. His allegation that he developed medical problem because of his posting at Chakrata is not

correct and is also not supported by medical authorities. He was relieved on 15.10.2004 and had also taken transfer advance, which he later returned when his transfer order to Chakrata was kept in abeyance. They have stated that transfer is an administrative necessity and the applicant cannot choose his station of posting. He has already been accommodated by changing his transfer order from Chakrata to Kalsi.

4. I have heard both the learned counsel and have gone through the pleadings and other material on record.

5. There is no doubt that the applicant is suffering from the problem of spondylitic and disc changes, as mentioned in the medical certificate produced by him. It is also a fact that this disease gets acute in cold weather and at high altitude. Considering these aspects, the Department has already taken a sympathetic view and has changed his transfer order from Chakrata to Kalsi, which is neither a hill station nor it has cold climate. The SFF is a security organization for which Ministerial staff is required and they will have to be transferred periodically from one station to another for its smooth functioning. The applicant has already stayed at Delhi for more than 3 years. Now that he is being transferred to Kalsi which is not a difficult station, he should not have any grievance. The respondents department have been considerate towards him by changing his posting from Chakrata to Kalsi. During the course of discussions, the learned counsel for the applicant alleged that he is being transferred to Chakrata to accommodate a lady employee who has been there only for one year. This allegation has no validity now since the applicant has been posted at Kalsi and not Chakrata. The applicant is suffering from a disease, which cannot be cured in a few months. It requires long term treatment for months and some time years. He cannot be allowed to remain in Delhi on this ground. He can get his treatment at Dehradun, in case of emergency.

6. The learned counsel for the respondents brought to my notice an order of this Tribunal in OA No.2513/2004 dated 22.11.2004, wherein similar circumstances pertaining to the same organization, the transfer order was held

valid and the OA was dismissed. It is a well settled principle of law that the Tribunals should not interfere in the matter of transfer, unless the order of transfer is malafide or is against any statutory rules. No such ground has been taken by the applicant in this case. On the other hand, the respondents have been very sympathetic towards the applicant and on his representation, his posting has been changed from Chakrata to Kalsi. In this connection, I am relying on the judgement of the Hon'ble Supreme Court in the case of **Mrs. Shilpi Bose Vs. State of Bihar** {1996 (2) SLR 713 (SC)} in which it has been held that if the Courts continue to interfere with day to day transfers, there will be complete chaos in administration which would not be conducive to public interest.

7. In view of the above, the OA turns out to be without any merit and the same is dismissed. No costs.

Bose
(S.K. Malhotra)
Member (A)

/pkr/