

3
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 36/92

DATE OF DECISION: 30.01.92.

SH. S.P. GROVER

.....

APPLICANT

VERSUS

UNION OF INDIA

.....

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

COUNSEL FOR THE APPLICANT : SH. B.S. MAINEE

COUNSEL FOR THE RESPONDENTS : SH. R.L. DHAWAN

(ORAL JUDGEMENT)

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks setting aside/cancellation of order dt. 3.1.92 (Annexure A-1 to the OA), whereby the applicant had been transferred from the present place of his posting at Aligarh to Kapurthala.

2. He is aggrieved with the impugned order on several grounds such as that the education of his children would suffer, being students of convent schools at Aligarh, and also because the place where he is intended to be moved is Punjabi-speaking area and possibly Gurmukhi as the medium of instructions. Another ground put forth by the applicant is that during the last $2\frac{1}{2}$ years, he has been moved to three places, with the duration of stay at the present place being even less than two years, adding to various difficulties to him, besides that regarding his wife as well as applicant being heart patients. Last but not the least mentioned by the applicant, seeking relief prayed for, is that there are other colleagues of his, with much longer stay, at the same station, and hence, it is a case of malafides against him.

3. In the counter filed on behalf of the respondents, the applicant's case has been opposed, primarily on the ground that being a transferable post, the applicant is liable to be transferred, at any place, according to the exigencies of service and requirements of the department. As regards the difficulty regarding his children's education, it has been submitted that the applicant can very-well retain the accommodation, within the rules, for the period, the academic year ends, and, therefore, this aspect can verywell be taken care of, in this manner. As regards the health reasons pointed out by the applicant, it was averred that the station at which the applicant is being transferred has almost equivalent medical facilities and, with regard to the last aspect regarding other colleagues of the applicant, with longer stay, not considered for transfer, it was submitted that it is the look out of the department, being its prerogative to consider the suitability of any concerned government servant, to be transferred or shifted to any particular place.

4. We have considered the rival contentions, as briefly discussed above. The law on the subject of transfers is well established and clear. It has been submitted, during the course of arguments that applicant has submitted a representation on 4.1.92, after the impugned order of transfer, which is stated to have been received by the respondents on 10th instant, and obviously, must be still under consideration of the respondents, as, no order thereon

D.S.C. 2

(b)

is stated by the learned counsel for the respondents, to have been passed thereon. Keeping the facts and circumstances, especially the difficulties pointed out by the applicant, in view, we are inclined to order that the present order of transfer in respect of the applicant, be held in abeyance till 30.4.1992. The respondents may take into consideration the difficulties put forth by the applicant, as briefly mentioned above, besides any others which he might have submitted in the representation to the department, and pass the appropriate order thereon. They may also consider to adjust him at any other station, keeping in view the post presently held by him, and also the difficulty regarding the medium of instructions as pointed out by him.

5. With the above observations, O.A. is disposed of, at the admission stage, itself, with no orders as to costs. Needless to say that the applicant will be within his rights to move any further application, if so advised.

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J)

/vv/
300192