

12

CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench, New Delhi.

O.A.1846/93

New Delhi, This the 8th Day of February 1994.

Hon'ble Shri C.J. Ray, Member(J)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

Shri Keshe Ram Sharma  
S/O Shri Ram Chander  
aged about 50 years  
R/O P-3/401, Laxmi Nagar  
Delhi - 110092

Present working as Upper Division Clerk(OTP)  
in the office of Commander Works Engineer,  
Delhi Cantt- 110010.

Applicant

By Advocate Shri MK Gupta

Versus

1. Union of India  
Through  
The Secretary  
Ministry of Defence  
South Block  
New Delhi - 110001.
2. Head Quarter  
Chief Engineer  
Western Command  
Chandimandir-134107
3. Commander Works Engineer  
Referral & Reserach Hospital  
Delhi Cantt-110010.

Respondents

By Advocate Mrs Raj Kum Chopra

O R D E R(Oral)

Hon'ble Shri C.J. Ray, Member(J)

1. The applicant files this DA claiming relief from the respondents to quash the order of transfer dated 31 Mar 1993. He also claims that he should not be transferred to any tenure station and for some other reliefs.
2. The applicant was appointed as a clerk, Stores Control in Army Ordnance with effect from 31 Jan 1963 and he was discharged from Army on 1.9.1965. He was re-appointed in Raj Rif Centre, Delhi Cantt as LDC with effect from 10.1.1966 and ~~that~~ he was posted under surplus/deficiency scheme in Military Engineering Services(MES) w.e.f. 01 Mar 1967 and he also earned increments.

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37

2. The applicant states that the procedure for granting increment and how he got the increments and how they should be given which are not germane to the issues therein.

3. The applicant states that he was shocked to learn that on 1.3.93 a transfer order was issued to him for joining at Hissar which is a tenure station. The applicant states that he has already served a tenure station for 3 years and he should not again be transferred to a tenure station. Further he states that he is a chronic patient of TB and Asthama since 1987 and that he was taking medical treatment through CGHS dispensary for the said diseases from Dr Ram Manohar Lohiya Hospital, New Delhi. The applicant further averred that Hissar is a desert area and is not suitable to him from medical angle. The other grounds raised are with regard to a letter written by him asking for voluntary retirement from 31 July 1994. It may be pertinent to mention that in this OA there is no relief claimed on voluntary retirement. Therefore, we do not consider it material to traverse into these paras. The applicant claims that Hissar being a desert area and on personal medical grounds he should not be transferred and the transfer is made arbitrarily and with malafide intentions and it should be quashed.

4. The respondents have filed their counter assailing the OA stating that the applicant's transfer order was issued on 31 Mar 93 as per clear policy issued vide their letter No.30203/744/EIC(I) dated 20 Dec 91. The OA is also attacked by the respondent stating that the applicant was given movement order on 20 Aug 93 and that when he refused to accept in the presence of witnesses, the same was sent by Registered Post. Subsequently, he was struck off strength with effect from 30 Aug 93. The applicant refused this movement order in the presence of two gazetted officers and then it was addressed to his House under registered Acknowledgement cover on 27 Aug 93 and therefore he was not allowed to mark his attendance. Further this OA has been filed by the applicant after one month of the issue of the movement order. The applicant if he

14

is really interested in voluntary retirement he should pursue the matter separately and not mix in this OA in an oblique way along with transfer. However, we sympathise with the applicant on personal medical grounds. But the Tribunal cannot interfere in transfer matters on personal grounds. There are well laid down principles by Hon'ble Supreme Court in Gujarat Electricity Board Vs Atma Ram, Shilpi Bose and HN Kirtania cases.

5. The most important consideration in Gujarat Electricity Board Vs Atma Ram case the Hon'ble Supreme Court has held that the individual should go and join duty first on transfer and then make a representation as otherwise he will be liable to disciplinary proceedings. Here instead of going on transfer and joining duty there at Hissar and making representation the applicant refused to take the movement order and filed this OA after one month of issue of movement order. The applicant claims that CGHS facilities are available only at Delhi which is absolutely wrong. CGHS are also situated where ESI offices are there. This is not the case of the applicant that people living in Hissar are not suffering from Asthama. The application is devoid of merits and the claim of the applicant with reference to voluntary retirement is not germane to this case. Therefore we do not like to interfere and the OA is dismissed with no costs.

*P. J. Thiruvengadam*

(P.T. THIRUVENGADAM)  
Member (A)

*C. J. Roy*  
(C.J. ROY)  
Member (J)

LCP