

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

OA No.710/93

Date of decision: 12-7-93

Shri Megh Raj Sharma

Vs. Union of India & Ors.

CORAM

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

For the applicant

.. Shri C.L.Kumar, Counsel

For the respondents

.. Ms. Protima Mittal,
Proxy counsel for
Shri K.C.Mittal, Counsel

J U D G E M E N T

This is an application filed under Section 19 of the CAT Act by the applicant aggrieved against the order dated 10th March, 1993 relieving him from Delhi with direction to report to the Supdt. of Police, CBI, Jammu, in the same capacity in pursuance of HQ order dated 9.3.1993.

Briefly stated, the facts of the case are that the applicant joined the CB, Delhi as Constable with effect from 17.3.75. He was transferred on 18.3.87, to Dhanbad and again to Calcutta on 15.11.90. Later on he sought his transfer to Delhi at his own request due to deteriorating health condition of his father and thus he was transferred to Delhi with effect from 1.3.1991. The applicant alleges that the transfer order is malicious, malafide and arbitrary and the original order dated 9.3.1993, pursuant to which he has been issued with the relieving order, has not been delivered to him. He also alleges that there are no specific guidelines for transfer. Hence this application.

The respondents have filed their counter affidavit stating that the transfer of the applicant from ~~Jammu~~ Delhi to Jammu is not a punishment inflicted upon him but a routine transfer to another place because he is employed in CBI and is liable for transfer to any office of the CBI by virtue of his service conditions. They have also stated that the applicant's transfer from Delhi to Dhanbad and from Dhanbad to Calcutta were because of his misconduct but the transfer from Calcutta to Delhi was on humanitarian grounds. They further aver that since the applicant stands relieved from ~~10.3.93~~ Delhi with effect from 10.3.93, he should first report for duty at Jammu and move his representation. Thus the application deserves to be dismissed.

I have heard Shri C.L.Kumar, learned counsel for the applicant and Ms. Protima Mittal, proxy counsel for the respondents and perused the records.

This is a settled law in the matter of transfer that the transfer is incident of service (Kirtania Vs. UOI - 1989 SC(L&S)481) and if the transfer is ordered in administrative exigencies and in public interest, especially when a person holds a transferable job, he should join at the place of transfer and then make a representation (Gujarat State Electricity Board Vs. Atma Ram - AIR 1989 SC 1433).

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I also do not see any arbitrariness or malafide in the order of transfer.

In view of the above, I do not think the applicant has made out a case for interference. However, I direct the respondents to receive the representation from the applicant and dispose it of sympathetically within two months, in view of the fact of his position.

The period of absence from the date ^{when} the applicant was relieved till the date he joins duty at the place of transfer may be treated as leave of the kind due, as admissible under Rules.

With this, observation, the application is disposed of with no order as to costs.

W. S. Roy
(C.J. ROY)
MEMBER (J)

12-7-83