

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

A L L A H A B A D

DATED: THIS THE ^{Time} 3rd DAY OF ~~MAY~~ 1996

O.A.NO.112/96

Single bench

Hon'ble Mr.S. Dayal. A. M.

S. K. Bali,
Area Manager,
C. S. D. Depot, Jhansi.

- - - - - Applicant

C/A Sri S. K. Tyagi

VERSUS

1. Union of India, through Secretary,
Ministry of Defence, New Delhi.
 2. Chairman, Board of Administration,
C.S.D. Bombay, Adelphi, 119-M.K.Road,
Bombay-4000 20.
 3. General Manager, C.S.D., Bombay
Adelphi, 119-M.K.Road,
Bombay-4000 20
- - - - - Respondents

ORDER

By Hon'ble Mr. S. Dayal. A.M.

This is an application under section 19 of Administrative Tribunals Act, 1985, seeking the following reliefs :


- i) quashing of transfer order dated 29.12.1995.
- ii) Issuance of a direction to the O.Ps to permit the applicant to continue as Area Manager, C.S.D. Depot, Jhansi till the normal tenure was completed.

iii) Non transfer of the applicant to a place of high altitude or having humid climate.

iv) Award cost of this application.

2. As per facts of the application, applicant is working as Area Manager, C.S.D. Depot, Jhansi with effect from 13.9.1994. The applicant has been transferred to Headquarter at Bombay. His claim is that in the past he was transferred to LEH, but his transfer was cancelled on medical certificate that he was not fit to serve at high altitude. Later on the applicant was transferred to Port Blair, which he joined on 24.3.1993. However on the basis of a certificate dated 9.11.1993 (annexure-6) to the effect that the applicant was suffering from PSORIASIS VULGARIS and the condition was likely to be aggravated by the climatic condition at Port Blair, he got transferred to Jhansi on the present post which was taken over by him on 30.9.1994. He claims that the transfer order is against the transfer policy as normal tenure of posting at a station of an officer would be two to three years, while the applicant had completed only one year. It is stated that the transfer is arbitrary and malicious, besides the transfer is in midst of the educational session and his children are studying and the examination would take place in the month of March/April.

3. The respondents have filed counter affidavit in which they have stated that the applicant's substantive post is Assistant Manager, which is group 'B' post and he is temporarily discharging the duties of the Manager, group 'A' post. due to shortage of group 'A' officer in the depot. The applicant is being relieved as group 'A' officers have been made available recently. It is mentioned that an officer is posted two to three years outside Bombay and then he is given posting at Bombay. The applicant has spent about one year at Bombay and about one year and seven months at Jhansi, thus two years and seven months outside Bombay. and therefore his posting at Bombay is justified on the basis of transfer policy.



4. I have considered the averments of both the parties and I have heard the arguments of Sri S.K.Tyagi for the applicant and Sri Amit Sthalkar for the respondents.

5. I find no violation of the transfer policy by the respondents in making the impugned order of transfer. It is clear that the applicant has completed two years and seven months at the time, the transfer order was made and ^{for} more than three years remained posted outside Bombay. Since around 50 percent posts are at Bombay, officers ^{have} necessarily to get posted at Bombay in the interest of cadre management. As a matter of fact, annexure 12, which is a revised transfer policy of group 'A' officers issued sometime after 1993 mentions that it was noticed that officers are reluctant to be posted at Bombay and made representations and the period of three years ~~outside Bombay~~ was, therefore, set for posting outside Bombay. The applicant can have no grouse since ^{he} has been given this period outside Bombay. So far as the question of physical ailment of the applicant is concerned, certificate of doctor in Annexure 1 shows that the disease was likely to be aggravated by extreme climatic condition. Bombay is not a station, where extreme climatic condition prevail. Another certificate produced at annexure 4 mentions that the applicant was not fit to serve at a high altitude which was given in connection with his transfer to LEH and it was not connected with the transfer to Bombay. It is true that the certificate at annexure 10 mentions that the disease gets aggravated in high altitude ^{as also} due to humid climatic condition. However, the applicant has joined his service in which it is essential that he would have to spend more than half of his service at Bombay. Besides he spent about one and half year at Port Blair and climate at Bombay is less humid than the climate at Port Blair. Therefore, the justification put forth by the applicant on the ground of his ailment cuts no ice.

6. The question of transfer in the midst of the term is also not relevant as this judgement is being delivered at a time when the ~~last~~ session has been completed and admission for next session are possible.

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Therefore, the application has no merit and is dismissed. There shall be no order as to costs.


A. M.

SQI