

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Original Application No.
Transfer Application no:

1306 of 1997

Date of Decision 21/4/98

Y. R. Chawla Applicant(s)

Shri S. K. Jaiswal Counsel for the Applicant
Counsel for the Applicant(s)

VERSUS

Union of India & ors Respondent(s)

Shri N. B. Singh Counsel for the Respondent(s)
Counsel for the Respondent(s)

C O R A M

Hon'ble Mr. S. L. Jain, J (T)
Hon'ble Mr. _____

- 1.
1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wish to see the fair copy of the judgment ?
6. Whether to be circulated to all Benches ?

S. L. Jain
(SIGNATURE)

PIYUSH/

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLD. BENCH,
ALLAHABAD

DATED : ALLD. ON THIS 2nd DAY OF APRIL, 1998

CORAM : HON'BLE MR.S.L.JAIN, MEMBER (J)

ORIGINAL APPLICATION NO. 1306 OF 1997

Yograj Chawla S/o Shri N.D.Chawla R/o
17A, Ramnagar, Roorkee, Haridwar.

.... Applicant.

C / A : Shri S.K.Jaiswal, Advocate.

Versus

1. Union of India through Secretary,
Ministry of Defence, Govt. of India,
South Block, New Delhi.
2. Controller General, Defence Accounts
(West Block V), R.K. Puram, New Delhi.
3. Controller of Defence Accounts (Army),
Meerut Cantt.
4. Shri Virendra Deewan, C.D.A. (Army),
Meerut Cantt.

.... Respondents.

C / R : Shri N.B.Singh, Advocate

O R D E R (RESERVED)
(By Hon'ble Mr. S.L.Jain, Member(J))

This is an application filed under
Section 19 of Administrative Tribunals Act, 1985 for
issue of a direction to consider the request for
transfer to Roorkee on Sympathetic ground be allowed & not to

P.N. 2 -

P.N. 1 -

harass the applicant in unjustified manner.

2. There is no dispute between the parties in respect of facts that the applicant was appointed in the year 1973 as an Auditor in Pay & Accounts Office under Bengal Engineer Group & Centre, Roorkee. He was transferred from Roorkee to Meerut on 31.05.91. He was promoted on the post of Selection Officer Accounts, Central Command, Meerut on 28.8.91. He was transferred to Dehradun as Local Audit Officer(Army) , Dehradun vide order of CDA(Army), Meerut dtd.30.11.94 and joined the said post on 01.12.94. On 08.12.94, he was transferred to Asstt.A/cs.Officer, B.S.O., Dehrdadun , retransferred to CDA(Air Force) , Dehradun vide order dated 29.03.95 which was cancelled on 22.04.95. On 23.09.95, he was transferred to Local Audit Office(Army) Claiment Town, Dehradun from AAO, BSO, Dehradun. On 11.02.96, he was transferred to pay and accounts officer (KRC), Ranikhet which was cancelled. On 07.01.97 he was transferred to CDA(Army), Meerut on the same post. In compliance of the said order, he joined at Meerut on 24.01.97 and then he proceeded on leave.

3. The grievance of the applicant is that since 08.12.94 the respondents' harassment and victimisation began. The wife of the applicant was also in the same Deptt. and working as Sr. Auditor at Roorkee. The applicant was making request for her transfer also to Roorkee. On 03.05.95 she was transferred to Dehradun on the post of Sr. Auditor, GDA(Air Force). On 07.01.97 his request not to transfer him from Dehradun was rejected. After joining on 24.01.97, he sought appointment for an interview with the CDA but he was not permitted to do so. On 17.03.97, the wife of the applicant also sought interview with the CDA and requested for transfer of her husband but in vain.

8/8/97

8/8/97

The wife of the applicant committed suicide on 29.03.97 and in her suicidal note she put the blame on her colleagues and higher authorities for making the family ruin. Hence this application.

4. The averments in the earlier paras are denied by the respondents and alleged that his transfers were on administrative ground. The transfer to Ranikhet was done as he had not served hard station during his 15 years of service. His transfers were cancelled on 29.03.95 and 11.02.96. He was posted at Dehradun on the administrative grounds after thorough investigations of the complaints against him. He has tempered the official documents and proceeded on leave frequently without getting it sanctioned. On this count the adverse remarks are given in the A.C.R. The respondents have alleged that the applicant has filed several O.As. in respect of the same relief, hence the application deserves to be dismissed with heavy costs.

5. During the course of arguments learned counsel for the respondents has drawn my attention to the O.A.No.921 of 1997 filed by the applicant. On the perusal of the order sheet dtd.16.10.97, I find that the Bench observed "Learned counsel for the applicant seeks time to amend the O.A. in the light of the above letters.". By the said order I cannot come to the conclusion that the amendment was to be made only in O.A.No.921 of 1997 but it was the discretion/choice of the applicant because he is the dominusllite.

6. When there is a separate cause of action, the applicant is free to move another application and he cannot be compelled to amend his earlier application. In the present case also, when his O.A.No.921 of 1997 was said to be infructuous, filing of subsequent O.A. cannot be said to be illegal one.

7. In para 4 (W), the applicant has also mentioned about nonsettlement of Death Gratuity and Family Pension etc., of her late wife. I am not concerned with the said fact for the reason that a separate O.A. is pending in this respect and the relief asked for has no relation with the said fact directly or impliedly.

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8. Transfer orders dated 29.03.95 and 11.02.96 were cancelled , hence the applicant cannot make any grievance in respect of the same.

9. Perusal of the pleadings does not show that the respondents acted with malice or against the instruction of the Govt., in respect of the transfer, which can be a cause of action for the applicant to seek the relief asked for.

10. A perusal of the counter, I find that the transfer of the applicant was on administrative grounds, the conduct and character of the applicant was put under servileness, hence the applicant cannot make any grievance in this respect.

11. The applicant has spent about 18 years at Roorkee, having no right to continue at the same station particularly when his conduct, character and behaviour is doubted by the superiors. It is true that there are frequent transfers of the applicant during the period since 30.11.94 to 24.01.97 but those transfers are either on the same station or within a range of one or two KMtrs. and out of which two transfers as stated in para 8 of the judgement are cancelled.

12. There is an adverse entry in the Annual Confidential Report of the applicant. In such a circumstances transfers became necessary.

13. In Vinod Sahai V/s Union of India (1996) 34 ATC Rule 55 (Luck) , it has been held that it is the duty of the respondents to place before the Tribunal the facts which led them to conclude that it was not in the interest of the administration to retain the applicant at the station where he was already working. In my opinion, respondents have satisfied this Tribunal the said ground by their pleadings and affidavit in this respect.

14. It is true that now the applicant has lost his wife, his children are studying at Roorkee but it is for the applicant to manage his own affairs. The sympathy can be gained by becoming of a good character, conduct and behaviour. His representation was decided on 01.10.97 and if he comes up to mark, the administration is likely to consider his request for transfer.

S.Y. /

15. In the above circumstances, when there is no malice and contravention of any instruction issued by the Government regarding transfer policy, I find that the request of the applicant cannot be adhered to and the application deserves to be dismissed and is accordingly dismissed with the costs amounting to Rs.650/-(Rs.500/-as Legal Practitioner's Fee and Rs.150/-as expenses).

P. V. M. 24/98
MEMBER (J)

/rsd/