

(1) Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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ORIGINAL APPLICATION NO. 715 OF 2004
this the 9th day of July 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Alok Roy, S/o Sri B.R. Roy, Sr. Tax Asstt., Office Income
Tax Officer Ward-I(2), Ghaziabad.

Applicant.

By Advocate : Sri B.P. Yadav.

Versus.

1. Union of India through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. Commissioner of Income Tax Sri Digvijay Kumar, C.G.O. Building No.1 Hapur Ghungi, Ghaziabad.
3. Chief Commissioner of Income Tax Meerut at Vaishali Aaykar Bhawan, 11th Floor, Sector IV, Vaishali, Ghaziabad.
4. Additional Commissioner of Income Tax Range-I, Ghaziabad.

Respondents.

By Advocate : Sri S. Singh.

ORDER

By this O.A., applicant has challenged transfer order dated 22.6.2004 whereby he has been transferred from CIT, Gaziabad to CIT, Aligarh (page 9).

2. It is submitted by applicant that he had suffered massive hart attack twice on 22.6.2002 and had to be ^{to the P} rushed hospital immediately. He has been operated and is still under treatment. He is also suffering from high Blood pressure and Diabetes, doctors have ~~been~~ advised him not to be alone at any time. He has, thus, given a representation also to the Chief Commissioner of Income.

Tax on 30.6.2004, but till date no reply has been given to him. It is submitted by applicant's counsel that applicant is continuing on leave. He has, thus, prayed that stay may be granted against transfer order till the disposal of the O.A.

3. Counsel for respondents, on the other hand, has submitted that this is a routine transfer order and it has repeatedly been held by the Hon'ble Supreme Court that the Courts should not interfere in posting orders unless it is shown to be a case of malafides or transfer is contrary to statutory rules. In the instant case, since there is no averment in the O.A., therefore, this case calls for no interference. He also submitted that applicant has already been relieved on 29.6.2004.

4. I have heard both the counsel and perused the pleadings as well.

5. It is well settled by now that Courts should not interfere in the matter of transfer and who is to be posted where, are the issues which are decided by the authorities concerned looking into the requirement of the department. However, the Hon'ble Supreme Court has also held that if a person is aggrieved by the transfer order and he has some genuine difficulties, he should approach the authorities concerned by filing a representation and incase a representation is filed, it is the duty of respondents to consider the same and pass appropriate orders in accordance with law within a reasonable period. In the instant case, it is seen that applicant has had Angioplasty done and the reports show that he did suffer heart attack and is being treated for ailment at Metro Hospital, Noida. In the representation, applicant has requested the authorities to post him either at Noida or at Vaishali so that he may get treatment easily incase it is required, ~~and~~ he may get immediate attention incase he ~~is~~ suffers another heart

(3)

attack. I do not wish to comment anything on the merits of the case as representation is still pending with the authorities. Since the scope of interference in transfer ~~matter is~~ ^{order} is very limited, I think, ~~that~~ it would be better if this matter is decided at admission stage itself by giving a direction to the respondent no.3 to consider the grievance of the applicant and see if he can be accommodated in some nearby place~~s~~, which shall ofcourse depend on the availability of the vacancy and other administrative exigencies, which are to be kept in mind by the authorities concerned and pass a reasoned and speaking order incase request of applicant cannot be acceeded to, within a period of 4 weeks from the date of receipt of copy of this order. Till such time the representation is decided, the respondents shall not force applicant to join at Aligarh, if he has already given his medical certificate.

6. With the above directions, this O.A. stands disposed of with no order as to costs.


MEMBER (J)

GIRISH/-