

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 964 of 2004

Allahabad this the 27th day of August, 2004

Hon'ble Mr. Justice S.R. Singh, V.C.

Alok Roy, Son of Sri B.R. Roy, Senior Tax Assistant,
Office Income Tax Officer Ward-1(2), Ghaziabad.

Applicant

By Advocate Shri V.K. Srivastava

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 Chungi, 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 II, Ghaziabad.
5. R.R. Hota, Chief Commissioner of Income Tax U.P. (West Region) Ghaziabad.

Respondents

By Advocate Shri Saumitra Singh

O R D E R (Oral)

The applicant- a Senior Tax Assistant was transferred in the month of June, 2004 from Ghaziabad to Aligarh. The said transfer order was challenged in O.A.No.715 of 2004. The Tribunal by its order dated

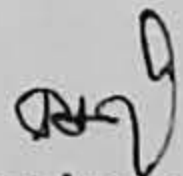
09/07/04 disposed of the O.A. with direction to Commissioner of Income Tax to consider the grievance of the applicant and see if he could be accommodated in some nearby place, which shall, ofcourse, depend on the availability of the vacancy and other administrative exigencies. Pending decision of the representation, it was provided by the Tribunal, the respondents should not force the applicant to join at Aligarh. Vide order dated 17.08.2004, impugned herein, the applicant's transfer to Aligarh has been cancelled and keeping in view the medical facilities available at Kanpur, the applicant has been posted at Kanpur on administrative ground. This order has been passed after taking into consideration the representation filed by the applicant, stating therein that he has been suffering from Diabetes and High Blood Pressure, and has also undergone Angioplasty. The applicant, it appears, has been insisting for posting at Noida, Vaishali and Ghaziabad for the reason of better treatment at these places. The order impugned herein has been passed keeping in view ^{of} the presence of Medical College at Kanpur and the fact that medical facility available at Kanpur ^{is} at par with or even better than Noida/Ghaziabad.

2. The transfer, it cannot be a gain said ^{as is} an incident of service and there is no scope of judicial interference in ^{the} matter like ^{one} on hand. Learned counsel for the applicant, however, submits that transfer of the applicant to Kanpur has been made under the influence of his wife who is living separately and facing a divorce suit, filed by the applicant. The applicant submits that he

Ref

apprehends threat to his life from his wife at Kanpur, where her parents reside. This allegation, it may be pointed out, has been made for the first time in the O.A.

3. In view of the above facts and circumstances, though I ^{am} ~~do~~ not persuaded to interfere with the impugned order, it may be observed that the applicant may file a fresh representation, if so advised, before the Chief Commissioner of Income Tax, who ~~on being~~ ^{is} if ~~is~~ satisfied that the applicant ~~will be~~ ^{is} facing threat to his life at Kanpur, may pass such order as he may deem fit and proper regarding the posting of the applicant to any other place near or around ~~the~~ ^{of} Delhi subject to availability of the post. This exercise shall be completed expeditiously, preferably within a period of one month from the date of receipt of representation alongwith a copy of this order. With these observations, O.A. stands dismissed. No order as to cost.


Vice Chairman

/M.M. |