

Reserved

Central Administrative Tribunal, Allahabad Bench, Allahabad

This the 8th day of October, 2021.

Hon'ble Mrs. Justice Vijaya Lakshmi, Member (J)

Hon'ble Mr. Tarun Shridhar, Member (A)

Original Application No. 330/00038/2021

1. Dinesh Kumar Sharma, aged about 52 years,
S/o Late Sri Ram Prasad,
Working as Vehicle Operator (C),
R/o House No. 43/GP/19-20, Govindpuri, Sikandra,
Agra.
Permanent Address: House No. 12, Shivpuri
Chandrapuri Colony, Mathura – 281001 (U.P.).
2. Sandeep, aged about 33 years,
Son of Sri Hansraj,
Working as Vehicle Operator (A),
Temporary Address R/o Quarter No. 56/6, Adrde
Colony Station Road, Agra Cantt. Agra – 292001.
R/o Village and Post Goyla Kalan,
District – Jhajjar (Haryana) – 124507.
3. Krishna Kant Dubey, aged about 51 years,
S/o Shri Kalesh Chand Dubey,
Working as (ALS-II),
R/o Krishna Colony, Sesioli Road, Raviraj Gas
Godown, Agagepur, District Agra – 282001.

..... APPLICANTS

By Advocate: Shri R.K. Dixit.

Versus

1. Union of India, through the Secretary Ministry of Defence, 101-A,
South Block, New Delhi.

2. Chairman, Defence Research & Development Organisation, Rajaji Marg, Vijay Chowk Area, Central Secretariat, New Delhi – 110004.
3. Dy. Director (Pers-AA3),
Defence Research & Development Organisation
Directorate of Personnel (Pers-9) Room No. 205, 'A'
Block DRDO Bhawan, New Delhi – 110011.
4. Director General Human Resources (H.R.),
Rajaji Marg Vijay Chowk Area Central Secretariat,
New Delhi – 110004.
5. The Director,
Aeria Delivery Research and Development Establishment, Agra – 282001.

----- Respondents.

By Advocate: Shri M. K. Sharma.

ORDER

Delivered By Hon'ble Mr. Tarun Shridhar, Member (A)

The applicants in the present O.A. who are working as Vehicle Operators under the control of the respondents are aggrieved by their transfer from Agra to different stations. Their transfer order was issued on 10.07.2019 which was accompanied by a movement order of the same date. They have challenged the transfer order by way of an earlier Original Application No. 144 of 2020 which was disposed off on 15.09.2020 with a direction to the respondents to consider and decide the representation of the applicants which they had submitted qua their transfer by means of a reasoned and speaking order. Pursuant to those directions, the respondents passed a detailed speaking order on 17.12.2020 which did not find any merit in the contentions of the applicants and held that the transfer had been effected in public interest and hence the representation was rejected, and the applicants were advised to comply with the transfer orders.

2. In the present O.A., the applicants are challenging this order dated 17.12.2020 as also the earlier transfer and movement order

dated 10.07.2019. For the sake of clarity, the relief sought in the O.A. has been reproduced below:

“i. The Hon’ble Tribunal may graciously be pleased to quash the impugned transfer orders dated 10.07.2019 (Annexure-A-1 to the O.A.) and impugned relieving orders of all three applicants dated 10.07.2019 (Annexure-A-2 to the O.A.) and order dated 17.12.2020 (Annexure-A-3 of the O.A.) with all consequential benefits.

ii. any other suitable order or direction which this Hon’ble Tribunal may deem fit and proper under the circumstances of the case.

iii. award the cost of the application in favour of the applicants.”

3. Learned counsel for the applicants argues that the impugned order is against the rules as also the policy of the department which restrains the respondents from transferring office bearers of the Union which the present applicants are, and also the fact that Group C employees are exempted from such transfers. The learned counsel also alleges that the transfer has been made on mala fide grounds as certain allegations of indiscipline and creating hindrance to the work were leveled against the applicants and this has caused serious prejudice in the minds of the officers. Therefore, he goes on to argue that it was incumbent upon the respondents to first enquire into the veracity of the allegations and only thereafter take a decision on the proposal to transfer the applicants. He further submits that the mere fact of the respondents not holding any enquiry is enough to establish their prejudice and mala fide intentions. He goes on to argue that the transfer order needs to be quashed even though the applicants may have been relieved as the Hon’ble High Court of Himachal Pradesh has categorically held that the mere fact that the transfer order has been implemented or the concerned official has been relieved cannot be a ground for refusing to stay the operation of transfer order. He further relies upon the following judgements:

i. Somesh Tiwari Vs. U.O.I and others SCC 2009

ii. Shri Kamlesh Trivedi Vs. U.O.I and others Full Bench Judgement Hon’ble C.A.T. (Principal Bench)

iii. Rajendra Chaubey Vs. U.O.I. and others A.T.J. 1995

iv. T.L. Gupta Vs. U.O.I. and others A.T.J. 2003

v. P. Thimmappa Vs. U.O.I. and others. A.I. S.L.J. 2009.

4. Learned counsel for the respondents on the other hand argues that since the Tribunal had passed a detailed order earlier in Original Application No. 144 of 2020 wherein interim relief was refused and the O.A. was disposed off with a direction to the respondents to decide the representation of the applicants, now the applicants have no ground to again assail the said order. He points out that the respondents have filed a detailed speaking order in this regard and hence the matter has now attained closure. Learned counsel further submits that the transfer of the applicants is strictly within the terms and conditions of the service of the applicants, and they are liable to be transferred to any establishment of the respondents' organization. He further draws attention to the draft policies/guidelines which the learned counsel for the applicants has quoted in support of his arguments, and states that these guidelines are of the Directorate of Aeronautical Quality Assurance Service (DAQAS) and by no stretch of imagination could they be applied to the applicants who are working in DRDO. The learned counsel goes on to argue that transfer being a part of service, the applicants have no vested right to remain posted at a particular station.

5. We have heard the learned counsel for the applicants and respondents and also carefully examined the documents on record. We are of the view that all the issues raised by the applicants in the present O.A. have already been carefully examined in the earlier Original Application bearing No. 144 of 2020 and it was a well-considered decision of the Tribunal that since the applicants had been relieved one year back there were no ground to either stay the transfer order or quash it. This Tribunal had further observed that transfer being an essential part of the service, ordinarily courts or tribunal do not interfere unless tainted by mala fides or issued a violation of any statutory provisions. In the instant case, as observed earlier, mala fides

have been only alleged but not established by any cogent evidence. Moreover, we cannot expect that the policy quoted by the learned counsel for the applicant can be applied in the case of the present applicants. The order passed in the earlier O.A. also shows that it was on the request of the applicants that the O.A. was disposed off with a direction to the respondents to decide the representation of the applicants which they have already done.

6. We may further add that the order passed by the respondents on the representation of the applicants which they are assailing in the present O.A. meets all the criteria of being a reasoned and speaking order and we find no infirmity in the same. We have also perused the various judgements/orders placed before us in support of his arguments by the learned counsel for the applicants and find that each of these cases has its own facts and circumstances, and these pronouncements do not lay down any law or precedence which could be construed as a firm ground to interfere with the impugned order.

7. In view of the above, we find this O.A. to be devoid of merits and is accordingly **dismissed**.

8. There shall be no orders as to costs.

(Tarun Shridhar)

Member (A)

(Justice Vijaya Lakshmi)

Member (J)

(Ritu Raj)