

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**



OA No. 404/2021

This the 08th day of July, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Vivek Agarwal, DANICS (JAG-II) Group 'A',
Age 41 years,
S/o Sh. J.L.Agarwal,
R/o Flat-58, Delhi Administration Officers Flat,
Greater Kailash-1, Delhi-110048.

... Applicant

(By Advocate: sh. M.K.Bhardwaj)

Versus

1. Union of India
Through its Secretary,
Ministry of Home Affairs,
Govt. of India, North Block,
New Delhi.
2. Joint Secretary (U.T)
Ministry of Home Affairs,
Govt. of India, North Block,
New Delhi.
3. Govt. of NCT of Delhi,
Through its Chief Secretary,
New Secretariat, I.P.Estate,
New Delhi.

... Respondents

(By Advocate: Sh. L.C.Singh for respondents No.1 & 2.
Ms. Esha Mazumdar for respondent No.3)



ORDER (ORAL)

By Hon'ble Justice L. Narasimha Reddy, Chairman

The applicant joined the Delhi and Andaman & Nicobar Islands Civil Services (DANICS) in the year 2010. Two years thereafter, he was posted at Lakshadweep, a hard posting and he served there, for a period of three years. Thereafter, he was posted to Delhi on 11.12.2015. Through an order dated 18.01.2021, the respondents transferred the applicant to Dadra and Nagar Haveli and Daman and Diu (DNHD). The applicant filed this OA, challenging the order insofar as it concerns his transfer.

2. The applicant contends that once he has served in a hard station like Lakshadweep for a period of three years, he is entitled to be continued in a soft station, at least for 8 years. He contends that in Delhi itself, quite large number of officers in his cadre are being continued for the past two decades and leaving them apart, the respondents have chosen him. He furnished the particulars of such officers in the OA.

3. The respondents filed a detailed counter affidavit. It is stated that the transfer of the applicant was part of a general exercise, and it was done strictly in accordance with the transfer policy. It is also stated that the applicant cannot insist on being continued at a particular place and he is



under obligation to serve at any station, to which he is posted.

4. The OA was heard at some length on 02.03.2021. By taking note of the particulars furnished by the applicant about the officers who are continuing in Delhi since 1999, we directed the respondents to file a reply in this behalf. Though reply is filed, no reason is stated that as to why some officers are being continued for decades together and the applicant was chosen to transfer.

5. Today, we heard Mr. M.K. Bhardwaj, learned counsel for the applicant and Mr. L.C. Singhi, learned counsel for respondents 1 and 2 and Ms. Esha Mazumdar, learned counsel for respondent 3.

6. The applicant feels aggrieved by his transfer to DNHD vide order dated 18.01.2021. Even at the threshold, we recognize the right of the respondents to transfer the employees to the place of their choices and the obligation of the employees, in turn, to work at the places to which they are transferred. At the same time, it must be noted that the respondents framed a policy, to ensure objectivity in the context of making transfers. Obviously, as a part of that policy, the applicant was posted at Lakshadweep and he remained there for three years. Once he worked in a hard station, he is entitled to be remained in ordinary or soft station, at least for a reasonable period. What is reasonable,



would depend upon the strength of the cadre at the place of posting and the stay of the incumbents, at that place. In a given case, the posting can be for few years and in other cases, it can be for a longer period. Irrespective of the length of the period for which the Officers are posted, the concerned authority is expected to be reasonable and objective, in choosing the persons for transfer. A set of officers cannot be continued in the same station for decades together, and those, who joined that very station in the recent past, cannot be chosen for transfer.

7. The applicant furnished the list of officers of his cadre, who are continuing in Delhi from the year 1999 onwards. All of them had joined the offices in Delhi, much earlier to the applicant. At least, when this Tribunal wanted to know, the respondents were supposed to indicate the reasons that warranted them to choose the applicant, even while retaining others who are continuing for a longer period in Delhi. No such reasons are forthcoming.

8. Learned counsel for the respondents has repeatedly stated that the transfer policy is strictly adhered to. Assuming that the policy is adhered to, the reasonableness must be apparent. At the cost of repetition, we observe that the respondents are continuing some officers for decades together



in same station and are picking others, who joined recently, for transfer.

9. We, therefore, allow the OA and set aside the impugned order insofar as it concerns the applicant. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lg/pj/sd