

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 62/656/2021

This the 15th day of April, 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

Farooq Ahmad Parrah, Age: 29 years, S/o Mohammad Afzal Parrah, R/o
Krandigam, Bijbehara, District Anantnag (J&K)-192124.

.....Applicant

(Advocate:- Mr. Showkat Ahmad Makroo, Sr. Advocate assisted by Mr. Danish Yousuf)

Versus

1. Union Territory of Jammu and Kashmir through Commissioner cum Secretary to Government Sheep & Animal Husbandry Department, Civil Secretariat, Srinagar/Jammu (J&K)-190009.
2. Director, Sheep Husbandry Department, Kashmir, Srinagar-190001.
3. Joint Director Extension/Farms, Sheep Husbandry Department, Kashmir, Srinagar-190001
4. District Sheep Husbandry Officer, Anantnag, Kashmir-192101.
5. Deputy Director, Sheep Breeding Farm Daksum, 192202.

.....Respondents

(Advocate: Mr. Sudesh Magotra, learned D.A.G.)

ORDER

ORAL

(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member-J)

The applicant Farooq Ahmad Parrah was appointed as a Class-IV employee in the respondent Department in the year 2011, and thereafter he was designated as Assistant Stockman, previously known as 'Shepherd'. While discharging his duties, the applicant was diagnosed with a severe and incurable disease of eyes called 'Pigmentary Dystrophy', which causes loss of vision and in 2013 the Medical Board assessed the degree of disability of the applicant at 50%. The applicant is aggrieved by the order bearing no. 03 SHD of 2021 dated 01.04.2021 by which he has been transferred from Sheep Extension Centre Kanalwan, Bijbehara to Sheep Breeding Farm, Daxum. The applicant is also aggrieved of the relieving order bearing no. FDSHO/Estt/C-IV/2021-



22/134-28 dated 01.04.2021. The applicant submitted a representation before the respondents stating therein that in view of the disease which he was suffering from, the transfer policy demand and casts an obligation upon the department to refer the applicant to Medical Board for assessing the present degree of his disability and thereafter consider his posting accordingly. However, the representation is still pending with the respondents for consideration.



2. Learned counsel for the applicant submits that the respondents are under an obligation to follow the transfer policy which has been issued by the Government in the Administrative Department vide Govt. Order No. 861-GAD of 2010 dated 28.07.2010 and in terms of the said policy, a duty is cast upon the respondents to consider the medical ground while transferring a physically challenged person. This is also mandated by office memorandum dated 13.03.2002 issued by the Ministry of Personnel, Public Grievance and Pensions Department, Department of Personnel and Training, whereby taking note of O.M. No. AB-14017/41/41/90-Estt (RR) dated 10.05.1990, it has been made clear to all the departments that physically handicapped employees on their transfer should be posted nearer to their native places. The Government of Jammu & Kashmir has also issued a circular bearing No. 2-SWD of 2014 dated 19.05.2014 which makes it obligatory for every department to ensure the posting of a physically challenged person in his native place, so as to ensure the safety of his health as is required in terms of Section 27(d) of Persons with Disability Act, 1998. It has also been stated that the applicant is also the only earning member of his family consisting of old aged parents and two brothers who are at present students.

3. We have heard Mr. Showkat Ahmad Makroo, Sr. Advocate assisted by Mr. Danish Yousuf, learned counsel for the applicant and Mr. Sudesh Magotra, learned D.A.G. for the respondents and perused the record.

4. The applicant has challenged the impugned order dated 01.04.2021 to the extent he has been transferred from Bijbehara to Daxum. It has been submitted by learned counsel for the applicant that the transfer order of the applicant has been passed in

violation of Circular No. 2-SWD of 2014 dated 19.05.2014. The perusal of the impugned order dated 01.04.2021 reveals that the applicant has been relieved from his posting at Bij Behara, hence, much cannot be done in this matter.



5. Looking to the facts and circumstances of the case, we dispose of the O.A. with direction to the respondents to treat this O.A. as representation of the applicant and take a decision on the same by passing a reasoned and speaking order within a period of seven days. While taking a decision, the respondents should also consider the medical grounds raised by the applicant. The respondents are also directed to not take any coercive method to force the applicant to join his new place of posting without giving him adequate joining time under rules.

6. Learned D.A.G. shall inform the respondents regarding the order passed today.

7. It is made clear that we have not entered in to the merits of the case.

(ANAND MATHUR)
MEMBER (A)
Arun

(RAKESH SAGAR JAIN)
MEMBER (J)