

P.W.
1/1

THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Original Application No.926 of 1993

R.L.Chopra

... vs

... Applicant

Union of India and others...

-:o:-

... Respondents

HON'BLE MR MAHARAJDIN, MEMBER-J

The applicant has filed this application seeking the relief to quash his order of transfer dated 06-10-92 and 07-06-93 (Annexures A-1 and A-10 respectively). It is further prayed that the respondents may be directed to post the applicant at Delhi as last leg posting.

The applicant is a Civilian employee in the Military Engineering Services. He was promoted to the post of Surveyor of Works and was posted at C.W.E. Pithoragarh since August 1989. He was transferred from Pithoragarh to Lucknow vide order dated 06-10-92 (Annexure A-1). One Jagjit Singh who was also working as Surveyor of Works was posted at his home district at Jallundhar. It is said that the Army Head Quarters, Engineer-in-chief branch issued a Circular dated 21-02-91 regarding posting policy of M.E.S. Civilian Officers (Annexure A-2) and para 18(b) of the said Circular reads as under :

" An Officer may be over in normal staff tenure of duration upto 3 years at/near his choice or selected place of residence as last leg posting ; provided he has not availed a compassionate posting ever earlier. In the event of having availed the Compassionate posting, the last leg tenure will be restricted to one year."

The applicant submitted a representation that he may be posted at his home town at Delhi as last leg posting as

Am

he is due to retire from service on 31-07-95 (Annexure A-III). He again submitted an application on 09-02-93 for getting last leg posting at Delhi (Annexure A-7). It is stated that his case was recommended by immediate Controlling Officer for his last leg posting at Delhi (Annexures A-8 and A-9), but the applicant was informed that his request for posting at Delhi, has been rejected (Annexure A-10). The applicant has said that he is being discriminated in getting the last leg posting as when two years were left for the retirement of Shri Jagjit Singh, he was given posting at his home town Jallundhar. The applicant has also said that he could not settle the marriage of his daughter as he was posted at remote area at Pithoragarh. His son is also studying, so on these grounds also he should have given posting at his home town.

The respondents filed Counter Affidavit and resisted the claim of the applicant that the transfer of the applicant from Pithoragarh to Lucknow was made in the exigency of service.

I have heard the learned counsel for the parties and perused the record.

The applicant since is the resident of Delhi and he is due to retire in the year 1995 as such as a last leg he desired to be posted at Delhi. He has produced the circular dated 21-02-91 (supra) and has urged that para 4(b) provides that the last leg of posting should be given according to the choice or at selected place of residence. The applicant submitted representation to this effect duly forwarded by his immediate controlling officer which was rejected, as there was no vacancy in

[Signature]

Delhi at the time when the order of transfer was passed.

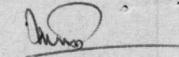
It is to be noted that career planning policy as provided in Annexure A-II is the only guideline and it does not have any binding effect. The guidelines are to be implemented as far as practicable.

It has been contended on behalf of the applicant that during his 33 years service he never availed any compassionate posting. The applicant was posted at Delhi on two different occasions and he remained there for more than eight years. So the contention of the applicant that he did not avail compassionate posting is falsified. The last leg posting may be considered in case others have not better claim. The applicant in the Rejoinder Affidavit has said that his order of transfer at a place other than his home town is discriminatory and he has cited instances of the employees who got the last leg of posting at their home towns. The applicant requested for his posting to Delhi where there was no vacancy. The last leg posting of Jagjit Singh and other employees was considered as there were vacancies. In the Rejoinder Affidavit the applicant has said that the respondents vide orders dated 06-06-93 and 25-10-93 posted Surveyor of Works to Shri L.G.Kateriya, Shri B.R.Popli and Shri Akhilesh Kumar at New Delhi. The order of transfer of applicant was passed as back as on 06-10-92, so the subsequent postings might have been made on availability of the vacancy. The respondents have categorically said that at the time when the order of transfer of the applicant was passed there existed no vacancy of Surveyor of Works at New Delhi. So the impugned order cannot be termed as discriminatory nor it can be said to

M.W.

have been passed in violation of the guidelines.

Thus considering these facts and circumstances of the case I am of the opinion that there is no merit in the application of the applicant and the O.A. is accordingly dismissed with no order as to cost.



MEMBER-J

Dated: Allahabad, February 16th, 1994.
(VKS PS)
