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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 1006 of 1993

Dr. G.K. Gupta Applicant.

Versus

The Indian Council of Agricultural
Research and another Respondents.

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(By Hon. Mr. S. Das Gupta, Member(A))

In this Original Application No. 1006 of 1993, under Section 19 of the Administrative Tribunal Act, 1985, the applicant has challenged the orders passed by the respondents transferring him from Bareilly and has prayed that the orders be quashed.

2. Briefly, stated the facts of the case are that the applicant was transferred in the month of April, 1988 from Central Mango Research Station Lucknow to Indian Veterinary Research Institute (In short I.V.R.I.) Izatnagar Bareilly on his own request. Since his reporting at Bareilly, he has been posted, ^{alternately} ~~ultimately~~, to the Horticulture Section and Animal Science Extension Division, ^{change} ~~as~~ such ^{h.} ~~overs~~ being effected very frequently. Subsequently, by the impugned order dated 16.2.1993 (Annexure- A 4), The applicant was transferred from Izatnagar to Central Soil and Water Conservation Research and Training Institute, Dehradun in the same capacity, purportedly, on his own request. It was stated in the transfer order that he would not be entitled to transfer travelling allowance. The applicant immediately, made a representation against

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the transfer order to the Director General ,I.C.A.R. stating therein that he has never made any such request for his transfer from Bareilly (Annexure-A 5). The representation, however, was not forwarded to the addressee and he was asked to hand over the charge. The applicant approached this Tribunal in O.A. No. 575 of 1983 and the same was disposed off by the Tribunal with a direction to the respondents to decide the representation dated 4.3.1993(Annexure- A 5). A copy of the Tribunal's order dated 29.4.1993 is filed as Annexure- A 7 to this application. The order of the Tribunal was forwarded to the respondents by the applicant and he submitted a detailed representation dated 29.4.1993(Annexure- A 7) in which he reiterated that he never made any request for transfer out of Bareilly. Thereafter, by the order dated 3.7.1993 (Annexure- A 2), the applicant has been informed that his representation for cancellation of the transfer order has not been ^{accorded to} ~~accorded~~ by the Director General I.C.A.R.

3. In the counter submitted by the respondents, the main point which has been emphasised is that the applicant's transfer to Bareilly was on his own request and that there was no assignment in I.V.R.I. at Bareilly which was suiting the specialisation of the applicant. It has been repeatedly stated in the counter that the applicant is a Research Scientist and his potential cannot be utilised in I.V.R.I. As regards his alleged request for transfer out of I.V.R.I., the

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respondents have stated that the applicant personally met the Director General, I.C.A.R. and requested for his transfer and that there being no post of Research Scientist of the discipline of Horticulture at I.V.R.I., the applicant was transferred to Dehradun.

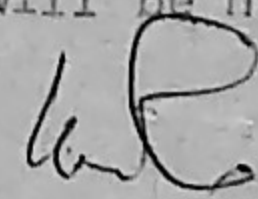
4. Transfer is a normal incident of service and the courts and Tribunals do not normally interfere in the transfers ordered in the exigencies of public service unless it is in violation of the statutory orders or malafides are established. This is, because it is the prerogative of the management to ~~marshal~~ ^{marshal} their man power in the best possible manner consistent with the exigencies of public service. In this case, however, the transfer order does not indicate that the same was issued in the exigency of public service. It is issued purportedly on the basis of the applicant's own request. The applicant has, however, vehemently denied having made any such request either verbally or in writing. The respondents have not been able to produce any written request of the applicant for his transfer out of I.V.R.I. They have mentioned that such request was made by the applicant during the personal interview with the Director General, I.C.A.R. This has been denied by the applicant. Such a denial gains credence from the fact that his earlier posting to Bareilly, which is stated to be his home station, is on his own request, to sort out certain personal problems. It is, therefore, unlikely that he would

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request for his transfer out of Bareilly. Even in their counter, the respondents have basically emphasised the fact that expertise of the applicant cannot be properly utilised in I.C.A.R. and that has been indicated as the main reason for his transfer to Dehradun. If that be the position of the matter, the transfer order cannot indicate that the same was passed on the request of the applicant.

5. In view of the foregoing discussions, I find that the impugned order dated 16.2.1993 (Annexure- A 1) and order dated 3.7.1993 (Annexure-A 2) along with the order dated 24.6.1993, referred to therein, are not sustainable. These orders are, therefore, quashed and set aside. The respondents, however, will be free to consider ^{the} ~~the~~ ^{de novo} question of utilisation of the applicant's services in I.V.R.I. or any other institute consistent with his specialisation and decide whether he should be transferred out of Bareilly. Such, decision will, however, be ^{based} ~~passed~~ purely on the exigencies of Public Service and consistent with the rules and orders governing transfer of the category of the employees to which the applicant belongs. There will be no order as to Costs.


Member (A)

Dated: 5 November, 1993.

(n.u.)