

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Original Application No. 1151 of 1993

Babu Singh Chauhan ::::::: Applicant

Versus

Union of India  
and Others ::::::: Respondents

Hon'ble Mr. Maharaj Din, Member(J)

This application has been filed by the applicant seeking the relief that the order of transfer dated 11.5.1993(Annexure-1) and the order dated 11.6.1993 turning down the representation of the applicant be quashed.

2. The applicant is posted as Assistant Supervisor in Military Farm, Agra ~~on~~ <sup>from</sup> 07.8.91. He received the impugned order of transfer dated- 11.5.1993 by which he has been transferred to Military Farm, Deolali. According to the applicant the impugned order of transfer has been passed in contravention to policy and circular of the department. The applicant can be posted at one place for about 3 to 4 years as provided in the circular(Annexure-II). It is further stated that the transfer of the applicant is the result of malafide intention and it has been passed by way of punishment. The employees who are posted in Military Farm, Agra since long, have not been transferred. The applicant being aggrieved has approached the Tribunal.

3. The respondents filed Counter-reply and resisted the claim of the applicant stating that impugned order of transfer of the applicant was passed on administrative ground and it is wrong to say that the order is arbitrary and illegal.

4. I have heard the learned counsel for the parties and perused the records.

5. The impugned order of transfer has been assailed on the ground that it has not been passed by the competent authority and the respondents attempted to give effect of the order of transfer without deciding the appeal of the applicant. The applicant in the original application has not taken the ground that the order of transfer is not passed by the competent authority, he has, however, taken this plea in supplementary affidavit which is after thought. Learned counsel for the applicant has not shown me the rule as to who is the competent authority to pass the transfer order. It is, however, to be noted that the applicant was posted as Assistant Supervisor, Naushera and he moved an application on 12.3.1988 for his posting on compassionate ground at one of three stations namely Alwar, Jaipur and Agra (Ann. C.A-1). Considering the request of the applicant the appropriate authority 'Officer Incharge, Military - Farms Records' passed order dated 08.7.1991 of transfer directing the applicant to report for

the duty on 07.8.91 at Military Farm, Agra(Ann.C.A-2). The compassionate posting is only for two years and as such in administrative exigencies, the applicant has been transferred vide impugned order dated 11.5.93 to Military Farm, Deolali. The <sup>impugned</sup> order of transfer was passed by officer incharge, Military Farms Records and the order of transfer on compassionate ground was also passed by the same officer known as Officer Incharge, Military Farm, Record is the competent authority to pass the transfer order following the guide lines framed from time to time. It is further stated by the respondents that the posting order has been issued in public interest to reduce the balance of strength which was excess to authorised the permanent strength at Military Farm, Agra and was causing extra expenditure on the establishment of Military Farm, Agra.

6. The applicant submitted an appeal against passing of impugned order which is addressed to respondent no.2 and advanced copy was also endorsed to respondent no.3 but, the same was rejected on the ground that instruction issued on 12.4.1989 regarding permanent posting of Military Farm, Personnel specifically states at internal page 5, that no appeal against a posting will be considered after the posting orders are issued and the same was communicated to the applicant. It is to be mentioned that in view of para 10 of the policy letter dated 12.4.1989 one has to give option of his posting at

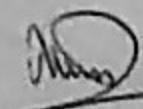
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the station of his choice before transfer list is prepared and not after the issuance of the order of posting. Moreover, the letter dated 12.4.1989 is the guide line and policy decision of the department which cannot be enforced through Court of law. According to the policy letter dated 12.4.1989, the station tenure for Group 'A' to Group 'C' employee has enumerated in para 6 is for normal condition and not for the employee like applicant who has been posted at Military Farm, Agra on compassionate ground. So, there is no violation of policy laid down for making transfer and these guiding principles are only directory in nature and not mandatory. The same view was taken in 1993 Supreme Court, 2444 Union of India Vs. S.L. Abbas.

7. The transfer of government employee from one station to another is the incidence of service and normally the same cannot be interfered with by the Court unless, the transfer order is malafide or the same has been passed in violation of any statutory rules. The same view was taken in A.I.R. 1991 Supreme Court 532 Mrs. Shilpi Bose Vs. State of Bihar and Others.

8. The applicant has not been able to establish that the transfer order is malafide or it has been passed in violation of mandatory statutory rules. Therefore, I find no merit in the application of the applicant, which is hereby dismissed with no order as to costs.

  
Member (J)

Allahabad, Dated 6<sup>th</sup> May 1994

/M.M./