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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 1543 of 1994

Dated : 27.10.1994

Sukh Lal son of late Sri Gular,
Resident of Village and Post office
Hansari Gwal Toli, Jhansi, presently
posted as U.D.C. in the office of the
Garrison Engineer Jhansi Cantt. ... Applicant.

(By Advocate Sri Avinash Tripathi)

Versus

Union of India through Secretary,
Ministry of Defence South Block
New Delhi and others Respondents.

O R D E R

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

Heard Sri Avinash Tripathi, brief holder
of Sri R.P. Tripathi, learned counsel for the
applicant. The applicant has been served with
an order of transfer from Jhansi to Pithoragarh
on 31.5.1994. The applicant's grievance is that
he had already served a tenure at Itarsi which is
considered to be a hard station, therefore, it is
unjust on the part of the respondents to transfer
^{Itarsi is also a hard station.}
him to Pithoragarh. It has also been stated that
the wife of the applicant is suffering from stomach
T.B. requiring complete bed rest. He has also pleaded
a problem ^{relating} ~~regarding~~ to the education of his children
in the event of his transfer.

2. It is settled position of law that a transfer
is an incident of service and transfer which has
been ordered in public interest or in administrative

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ground cannot be challenged except on the ground of violation of statutory rules or malafide.

3. From the pleadings, it is apparent that there has been no violation of any statutory rule in issuing the order of transfer nor is there any pleadings regarding the malafide on the part of the respondents in issuing the same. In view of this, the transfer order cannot be challenged successfully.

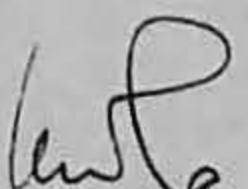
4. It has, however, been pointed out by the counsel for the applicant that in the remarks column of the impugned transfer order dated 31.5.1994, the remarks against the applicant is that he is ~~voluntier~~ to be adjusted at Pithoragarh. It has been stated that the applicant never ~~voluntiered~~ for such adjustment. The preamble of the transfer order, however, indicates that all the postings have been ordered in the ~~exigencies~~ of service and job requirement in the interest of State. There ~~has~~ thus, an apparent ~~discrepancy~~ between the preamble of the order and the remarks made against the specific order of posting.

5. I have noted that the applicant has submitted an appeal dated 18.6.1994(Annexure- A 9) requesting for cancellation failing which ~~deferrment~~ of his transfer. I have also noted the instructions contained in the circular letter dated 25.2.1991(Annexure- A 8) relating

to posting/transfer policy of Group-C & D employees provide for scope on the part of the applicant to represent against the transfer.

6. In view of the above, I hereby direct the respondents to consider the representation dated 18.6.1994 stated to have been submitted by the applicant on merit and take a reasoned decision thereon within a period of 1 month from the date of communication of this order. The order of transfer shall remain stayed till the disposal of the representation. In case, the applicant has already been relieved on his duty, he shall be taken back on duty at Jhansi and the intervening period shall be regularised by grant of leave as due.

7. The application is disposed of with the above directions. There will be no order as to costs.


Member (A)

(n.u.)