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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 1812 of 1994

Allahabad this the 12th day of Dece. 1994

Hon'ble Mr. T.L. Verma, Member(J).

D.K. Gupta S/o B.R. Gupta, R/o Commander Works
Engineer, Hills, Pithoragarh.

Applicant.

By Advocate Shri L.J.S. Srivastava

Versus

1. Union of India through Sec. Ministry of Defence,
Govt. Of India, N. Delhi.
2. Chief of Army Staff, Army Head Quarters, N. Delhi.
3. GOC In Chief, Central Command, Lucknow.
4. Engineer in Chief in E in C's Branch Army Head
Quarter, N. Delhi.
5. Brig. G.S. Sondh, C.E. Bareilly, Bareilly
Zone, Bareilly Cantt.

Respondents.

O R D E R (Oral)

Heard, Sri Lalji Sahai Srivastava
counsel for the applicant on admission.

The applicant Commander Works Eng-
ineer, hills, Pithoragarh has been transferred from
Pithoragarh to Jabalpur Zone. This application has
been filed for quashing the order of transferring
the applicant from Bareilly Zone to Jabalpur Zone
on the grounds of malafides. I have heard the
learned counsel for the applicant and perused the
record. There is hardly any tangible material on
the basis of which inferences of malafide can be drawn.
It was stated that the applicant was not in a position
to move on account of illness. The medical
certificate filed on behalf of the applicant in
support of his illness of the applicant is at

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page 20 of the application. From the perusal of certificate granted by the doctor, it appears that the applicant was suffering from seasonal fever. The illness of the applicant, as is evident, from the prescription ~~was~~^{is} is not such as would have ~~to~~^{be} made it inadvisable to move out of Pithoragarh.

2. The Supreme Court in Shilpi Bose's case has laid down clear ~~para-meteria~~^{parameter} for the judicial review in matters of transfer. It has been stated that the High Court and the Tribunal should not ordinarily interfere with the order of transfer passed by the competent authority, even if, the transfer has been made in violation of executive instructions. The transfer in a transferable post is an ordinary incident of service. Inconvenience, if caused by such transfer obviously cannot be determinative of the illegality or otherwise of a transfer order. The applicant has if any grievance against his transfer he may move ~~to~~^{to} the higher authority by making the suitable representation. ~~but the same has not~~
The learned counsel for the applicant submits that the applicant has already filed a representation but the same has not yet been disposed of. The applicant, of course, entitled to a reply to the representation filed by him.

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3. In view of the facts and circumstances mentioned above, I am not inclined to interfere with the order of transfer impugned in this case . The respondents are, however, directed to dispose of the representation filed by the applicant within 15 days from the date of communication of this order. If the applicant has ^{not} already been relieved of his post, he shall not be relieved for 15 days or till disposal of his representation whichever is latter. The application is dismissed with the above order at admission stage itself.

J. K. Mehta
Member(J)

/M.M./