

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

O.A. NO.: 29 of 1995
T.A. NO.:

DATE OF DECISION: 29-7-1995

Om Prakash Agarwal

----- PETITIONER(S)

C/A Sri M.K. Upadhyay

----- ADVOCATE FOR THE
PETITIONER

V E R S U S

Union of India & Others.

----- RESPONDENT (S)

C/R Sri -----


----- ADVOCATE OF THE
RESPONDENTS

C O R A M

The Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

The Hon'ble Mr. _____

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Bench ?


SIGNATURE

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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 29 of 1995

Allahabad this the 29th day of March 1995

Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

Om Prakash Agarwal, S/o Late Shri Mool Chand Agarwal,
R/o 46, Subhash Marg, Jhansi, Cantt. presently posted
as E.M. Grade-I in the office of the Garrison Engineer,
Jhansi Cantt.

Applicant

By Advocate Shri M.K. Upadhyay

Versus

1. Union of India through Engineer in Chief, Army
Head Quarter, New Delhi.
2. Chief Engineer, Central Command, Lucknow(MES)
3. Chief Engineer, Jabalpur Zone, Jabalpur(MES)
4. Commander Works Engineer, Jhansi Cantt. Jhansi(MES)
5. Garrison Engineer, Jhansi(MES)

Respondents.

O R D E R

By Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

The petitioner has come to this Tribunal challenging his transfer ordered on 14.10.1993 vide which respondent no.2 asking him to join at the new place now ordered i.e. at Jabalpur. This order was received by the petitioner on 16.10.1993. He filed a representation which was rejected by the respondents and he was asked to join at the new station vide Annexure A-2

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:: 2 ::

2, His grounds of challenge are that his representation has been rejected without any detailed reasons. He pleads that his wife is a patient of Asthma and was under treatment at Jhansi and mother of the petitioner was an aged lady who was not able to move from one place to another. He himself remained on medical leave after 21.7.1994 before which he was on leave for one year. He ~~himself~~ himself is suffering ~~from~~ from T.B. His daughters are studying in class XI and the transfer order has resulted in suffering to him. He claims that a disciplinary proceeding is also pending against him.

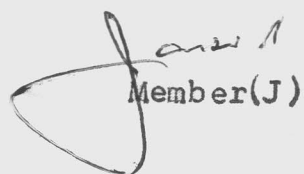
3. After hearing the learned counsel and going through the record it appears that the petitioner has been serving at Jhansi since May, 1991 (Annexure A-10). It further mentions that ^{was} there ~~no~~ no disciplinary case pending or under investigation against him at that time when he was posted as Superintendent Grade I. Let it be stated that transfer is an incidence of service and his transfer ordered in administrative exigencies cannot be successfully challenged except on the grounds of violation of some statutory rules or if, there are allegations of malafides. In the present case no such grounds are made out. It is not a case where he can be said to have been transferred repeatedly within a very short spell.

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:: 3 ::

It is the discretion of the employer to decide on administrative exigencies and seeing the public interest as to where and when an employee is to be transferred. It is true that administrative exigency and public interest are terms which are not used without a meaning and incase these have been used only to hide some ulterior reasons, the Court can always look behind the same. But all the same the Court cannot substitute its opinion for the opinion and discretion of an employer. The petitioner had filed a representation mentioning his difficulties and it is his employer who is in a better position to verify the facts mentioned in such representation. The representation has been considered and rejected. It is true that it is always desirable that any administrative order should appear to be of the nature which has been passed by application of mind and which should be apparent from the order itself. In the present case, however, the Court is dis-inclined to interfere only for the reason that the rejection order itself is not a speaking order, as no grounds otherwise are made out.

4. No triable case is made out. The petition is dismissed at the admission stage.


Member(J)

/M.M./